45th Legislature

1C 0054/01

SENATE BILL NO. 29 1 INTRODUCED BY BLAYLOCK 2 з A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND L. CLARIFY THE LAWS RELATING TO HEALTH AND SAFETY: AMENDING 5 SECTIONS 27-706, 27-707, 27-722, 27-805, 50-480.7, 54-301, 6 54-319, 69-1401, 69-1504, 69-1508, 69-1509, 69-1802, 7 **69-1808**, **69-1923**, **69-1925**, **69-2111**, **69-2701**, **69-2702**, 8 69-4428.1, 69-4504, 69-4508, 69-5201, 69-5207, 69-5502, 9 69-6701, 69-6704, 69-7102, 69-7103, 69-7105, 69-7107, 10 69-7108, 69-7110, 82-1201, 82-1202, 82-1215, 82-1226, 11 82-1229, AND 94-5-615, R.C.M. 1947; AND REPEALING SECTIONS 12 41-2101 THROUGH 41-2108, 69-1924, AND 82-1232, B.C.M. 1947." 13 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 Section 1. Section 27-706, R.C.M. 1947, is amended to 16 read as follows: 17 #27-706. Detention or embargo of adulterated or 18 misbranded articles -- condemnation proceedings -- immediate 19 abatement of nuisances. (a) (1) Whenever-a-duly-authorised If 20 an agent of the department finds or has probable cause to 21 22 believe that any food, drug, device, or cosmetic is adulterated, or so aisbranded as to be dangerous or 23 fraudulent within the meaning of this act, he shall affix to 24 such the article a tag or other appropriate markingy giving 25

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1 notice that such the article is, or is suspected of being, adulterated or wisbranded and has been detained or embargoed 2 3 and warning all persons not to remove or dispose of such the ь article by sale or otherwise until permission for removal or 5 disposal is given by such the agent or the court. It shall 6 be is unlawful for any a person to remove or dispose of such a detained or embargoed article by sale or otherwise without 7 such permission. 8

9 (b) [2] Show If an article detained or embargoed under 10 subsection (a) (1) has been is found by such the agent to be adulterated or misbranded, he shall petition the justice of 11 12 peace, police city judge, or district court in whose jurisdiction the article is detained or embargoed for a 13 14 libel an order for condemnation of such the article. When 15 such If the agent has found finds that an article so 16 detained or embargoed is not adulterated or misbranded, he 17 shall remove the tag or other marking.

(3) If the court finds that a detained or embargoed 18 article is adulterated or misbranded, such the article 19 shall, after entry of the decree, be destroyed at the 20 21 expense of the claimant thereof, under the supervision of 22 such the agent, and all court costs and fees and storage and 23 other proper expenses shall be taxed against the claimant of 24 such the article or his agent+. provided, that when If the 25 adulteration or misbranding can be corrected by proper

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1 labeling or processing of the article, the court, after 2 entry of the decree and after such the costs, fees, and 3 expenses have been paid and a good and sufficient bond, conditioned that such the article shall will be so labeled 4 5 or processed, has been executed, may by order direct that 6 seeh the article be delivered to the claimant thereof for 7 such the labeling or processing under the supervision of an 8 agent of the department. The expense of such the supervision 9 shall be paid by claimant. Such The article shall be 10 returned to the claimant of --- the article on the 11 representation to the court by the department that the 12 article is no longer in violation of this  $act_{T}$  and that the 13 expenses of such the supervision have been paid.

14 (4) [4] Whenever the department or any of its 15 authorized agents shall find in any room, building, vehicle 16 of transportation, or other structure, any meat, sea food, 17 poultry, vegetable, fruit, or other perishable articles 18 article which are is unsoundy or contains any 19 filthy, decomposed, or putrid substance, or that may be 20 poisonous or deleterious to health or otherwise unsafe, the 21 same article being hereby declared to be a nuisance, the 22 department or its authorized agenty shall forthwith 23 immediately condemn or destroy the same article or in any 24 other manner render the same article unsalable as human 25 food."

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Section 2. Section 27-707, R.C.M. 1947, is amended to
 read as follows:

#27-707. Proceedings to be instituted and prosecuted 3 without delay --- defendant's right to be heard by fit. department. It shall be the duty of each Rach state attorney 5 or county attorney, to whom the department reports any a 6 7 proceedings to be instituted in the proper courts without 8 delay and to be prosecuted in the manner required by law. 9 Before any a violation of this act is reported to any-such a 10 state or county attorney for the institution of a criminal 11 proceeding, the person against whom such the proceeding is 12 contemplated shall be given appropriate notice and an 13 opportunity to present his views before the department or 14 15 its designated agent, either orally or in writing, and 16 either in person or by attorney, with regard to such the 17 contemplated proceeding."

18 Section 3. Section 27-722, R.C.M. 1947, is amended to
19 read as follows:

20 #27-722. Department's access to buildings and
21 presides crasination of samples Inspections and taking of
22 samples authorized. (1) The department or its authorized
23 agents shall have free access at all reasonable hours to any
24 factory, warehouse, or establishment in which foods, drugs,
25 devices, or cosmetics are manufactured, processed, packed,

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<u>or</u> held for introduction into commerce, or to enter any
vehicle being used to transport or hold such the foods,
drugs, devices, or cosmetics in commerce, for the purpose:
(a) of inspecting such the factory, warehouse,
establishment, or vehicle to determine if any of the
provisions of this act are being violated, and

7 (b) to securing samples or specimens of any
8 food, drug, device, or cosmetic after paying or offering to9 pay for such the sample.

10 [2] It--shell be-the-daty of the The department to
11 shall make or cause to be made erazinations of samples
12 secured under the provisions of this section to determine
13 whether or not any provision of this act is being violated."
14 Section 4. Section 27-805, R.C.M. 1947, is amended to
15 read as follows:

#27-805. Penalties for violations. Any A person who 16 violates any of the provisions of the this act or the 17 orders, or rules or regulations promulgated by the 18 department under authority thereof, of it shall, upon 19 conviction, thoreof be subjected to fine fined for each and 20 every offense,-is a cus not exceeding one-hundred dollars no 21 more than (\$100) or to imprisonment be imprisoned for any 22 term not to exceed thirty (30) days." 23

24 Section 5. Section 50-480.7, R.C.M. 1947, is amended 25 to read as follows:

#50-480.7. Order --- no violation --- abatement. An 1 2 operator notified of an order made under costion 50-480.2 3 50-480.3 may apply to the division for a nearing or revision a. of the order. If the division finds that there was no 5 violation, it shall make an order rescinding the order under 6 review. If the division finds that there was a violation  $\tau$ 7 but the violation has since been abated, it shall make an 8 order rescinding the order under review. If the division 9 finds that the violation was not totally abated, it shall 10 make an order consistent with its findings."

Section 6. Section 54-301, R.C.H. 1947, is amended to
read as follows:

13 "54-301. Definitions. As used in this act <u>the</u>
14 <u>following definitions apply</u>:

15 (1) "Administer" means the direct application of a
16 dangerous drug, whether by injection, inhalation, ingestion,
17 or any other means, to the body of a patient or research
18 subject by:

19 (a) a practitioner (or by his authorized agent) 7; or

20 (b) the patient or research subject at the direction21 and in the presence of the practitioner.

(2) "Agent" means an authorized person who acts on
behalf of or at the direction of a manufacturer,
distributor, or dispenser. It does not include a common or
contract carrier, public warehouseman, or employee of the

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1	carrier or warehouseman.	1	lawful order of a practitioner, including the prescribing,
2	(3) "Board" means the board of pharmacists <sub>7</sub> , provided	2	administering, packaging, labeling, or compounding necessary
3	for in sostion 821-1602.21.	3	to prepare the drug for that delivery.
. 4	(4) "Bureau" means the bureau of narcotics and	4	(10) "Dispenser" means a practitioner who dispenses.
5.	dangerous drugs, United States department of justice, or its	5	(11) "Distribute" means to deliver other than by
6	successor agency.	6,	administering or dispensing a dangerous drug.
7	(5) "Dangerous drug" means a drug, substance, or	7	(12) "Distributor" means a person who distributes.
8	immediate precursor in Schedules I through V hereinafter set	8	(13) "Drug" means:
9	forth.	9	(a) <del>substances</del> <u>a substance</u> recognized as <del>drugs</del> <u>a drug</u>
10	(6) "Counterfeit substance" means a dangerous drug	10	in the official United States phar∎acopoeia, official
11	which $r$ or the container or labeling of which $r$ without	11	homeopathic pharmacopoeia of the United States, or official
12	authorization, bears the trademark, trade mame, or other	12	national formulary, or any supplement to any of them;
13	identifying mark, imprint, number <u>, <del>of</del> or</u> device <del>,</del> or any	13	(b) <del>substances</del> <u>a substance</u> intended for use in the
14	likeness thereofy of a manufacturer, distributor, or	14	diagnosis, cure, mitigation, treatment, or prevention of
15	dispenser other than the person who in fact manufactured,	15	disease in man or animals;
1 <del>6</del>	distributed, or dispensed the drug.	16	(c) substances <u>a substance</u> (other than food) intended
17	(7) "Deliver" or "delivery" means the actual,	17	to affect the structure or any function of the body of man
18	constructive, or attempted transfer from one person to	18	or acimals; and
19	another of a dangerous drug, whether or not there is an	19	(d) <del>substance</del> <u>a substance</u> intended for use as a
20	agency relationship.	20	component of any article specified in <del>clause</del> (a), (b), or
21	(8) "Department" means the department of professional	. 21	(c) of this subsection. It does not include <del>devices</del> <u>a device</u>
22	and occupational licensing, provided for in Title $62\lambda$ ,	22	or their its components, parts, or accessories.
23	chapter 16.	23	(14) *Immediate precursor* means a substance which the
24	(9) "Dispense" means to deliver a dangerous drug to an	24	board of pharmacists <del>has found to be</del> <u>finds</u> and by rule
25	ultimate user or research subject by or pursuant to the	25	designates as being the principal compound commonly used or
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produced primarily for user and which is an immediate
 chemical intermediary used or likely to be used in the
 manufacture of a dangerous drug, the control of which is
 necessary to prevent, curtail, or limit manufacture.

(15) "Manufacture" means the production, preparation, 5 propagation, compounding, conversion, or processing of a 6 dangerous drug- either directly or indirectly by extraction 7 from substances of natural origin. or independently by means 8 of chemical synthesis, or by a combination of extraction and 9 chemical synthesis, and includes any packaging or 10 repackaging of the drug or labeling or relabeling of its 11 container-. errest that this The term does not include the 12 preparation or compounding of a dangerous drug by an 13 14 individual for his own use or the preparation, compounding, 15 packaging, or labeling of a dangerous drug:

16 (a) by a practitioner as an incident to his 17 administering or dispensing of a dangerous drug in the 18 course of his professional practice $\tau_1$  or

19 (b) by a practitioner, or by his authorized agent 20 under his supervision, for the purpose of, or as an incident 21 to, research, teaching, or chemical analysis and not for 22 sale.

(16) "Barijuana (marihuana)" means all plant material
from the genus cannabis containing tetrahydrocannabinol
(THC) or seeds of the genus capable of germination.

(17) "Narcotic drug" means any of the following,
 whether produced directly or indirectly by extraction from
 substances of vegetable origin, or independently by means of
 chemical synthesis, or by a combination of extraction and
 chemical synthesis:

6 (a) opium and opiate, and any salt, compound,
7 derivative, or preparation of opium or opiate;

8 (b) any salt, compound, isomer, derivative, or
9 preparation thereof which is chemically equivalent or
10 identical with any of the drugs referred to in <del>clause (a)</del>
11 <u>17(a) of this section</u>, but not including the isoquinoline
12 alkaloids, of opium:

13 (c) opius poppy and poppy straw; or

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(d) coca leaves and any salt, compound, derivative, or
preparation of coca leaves, and any salt, compound, isomer,
derivative, or preparation thereof which is chemically
equivalent or identical with any of these drugs, but not
including decocainized coca leaves or extractions of coca
leaves which do not contain cocaine or econine.

20 (18) "Opiate" leans any drug having an 21 addiction-forming or addiction-sustaining liability similar 22 to morphine or being capable of conversion into a drug 23 having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as a 24 25 dangerous drug under section 54-3)2 af--this-act, the

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dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
 salts (dextromethorphan). It does include its racemic and
 levorotatory forms.

4 (19) "Opium poppy" means the plant of the species
5 papaver somniferum 1., except its seeds.

6 (20) "Person" means <u>an</u> individual, corporation,
7 government or governmental subdivision or agency, business
8 trust, estate, trust, partnership<u>e</u> association, or any
9 other legal entity.

10 (21) "Poppy straw" means all parts, except the seeds,
11 of the opium poppy, after moving.

12 (22) "Practitioner" means:

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(a) a physician, dentist, veterinarian, scientific
investigator, or other person licensed, registered, or
otherwise permitted to distribute, dispense, or conduct
research with respect to or to administer a dangerous drug
in the course of professional practice or research in this
state; and

19 (b) a pharmacy or other institution licensed,
20 registered, or otherwise permitted to distribute, dispense,
21 or conduct research with respect to or to administer a
22 dangerous drug in the course of professional practice or
23 research in this state.

24 (23) "Production" includes the manufacture, planting,
25 cultivation, growing, or harvesting of a substance or drug

1 regulated under the provisions of this act.

2 (24) "State,", when applied to a part of the United
3 States, includes any state, district, commonwealth,
4 territory, insular possession thereof, and any area subject
5 to the legal authority of the United States of America.

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6 (25) "Ultimate user" means a person who lawfully
7 possesses a dangerous drug for his own use or for the use of
8 a member of his household or for administering to an animal
9 owned by him or by a member of his household.

10 (26) The term "prescription" shall be is given the
 11 meaning it has in section 66-1502(13), Ref. 1947."

Section 7. Section 54-319, R.C.M. 1947, is amended to
 read as follows:

\*54-319. Procedure for denial, suspension, revocation, 14 or refusal to renew registration. (1) Before denying, 15 suspending, or revoking a registration, or refusing a 16 renewal of registration, the board shall cause to be served 17 serve upon the applicant or registrant an order to show 18 cause why registration should not be denied, revoked, or 19 suspended, or why the renewal should not be refused. The 20 order to show cause shall contain a statement of the basis 21 therefor and shall require the applicant or registrant to 22 appear before the board at a time and place not less than 23 thirty (30) days after the date of service of the order, but 24 in the case of a denial or of renewal of registration, the 25

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1 show cause order shall be served not later than thirty. (30)
2 days before the expiration of the registration. These
3 proceedings shall be conducted without regard to any
4 criminal prosecution or other proceeding. Proceedings to
5 refuse renewal of registration shall do not abate the
6 existing registration, which shall remains in effect
7 pending the outcome of the administrative hearing.

8 (2) The board may suspend, without an order to show cause, any registration simultaneously with the institution 9 of proceedings under costion 54-317 54-318 or whenever 10 11 renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which 12 warrants such action. The suspension shall---- continue 13 continues in effect until the conclusion of the proceedings, 14 including judicial review thereof, unless sooner withdrawn 15 by the board or dissolved by a court of competent 16 17 jurisdiction."

18 Section 8. Section 69-1401, B.C.M. 1947, is amended to 19 read as follows:

\*\*69-1401. Construction of scaffolds. All scaffolds
erected in this state for use in the erection, repair,
alteration, or removal of buildings shall be well and safely
supported, and of sufficient width, and properly secured, so
as to ensure the safety of persons working thereon on them
or passing thereunder, under them or by the same, them and

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to prevent <del>the <u>them</u> from</del> falling <del>thereof,</del> or <del>of <u>to prevent</u> any material that may be used, placed, or deposited <del>thereon</del> <u>on them from falling."</u></del>

Section 9. Section 69-1504, R.C.E. 1947, is amended to
read as follows:

6 "69-1504. Inspection of boilers --- further
7 requirements in making inspection. (1) The inspector must
8 also satisfy himself that:

9 (a) the safety values are of suitable relieving 10 capacity ratings, sufficient in number and area, and 11 properly arranged, and that the safety values are properly 12 adjusted so as not to allow as a greater pressure in the 13 beilers <u>a boiler</u> than the amount prescribed by the 14 inspection certificate;

15 (b) that there are a sufficient number of gauge cocks
16 properly inserted to indicate the amount of water, and
17 suitable gauges that will correctly record the pressure of
18 steam; and

19 (c) adequate and certain provisions for an ample 20 supply of water to feed the boilers boiler at all times, and 21 that suitable means for blowing out are provided, so as to 22 thoroughly remove mud and sediment from all parts of the 23 boilers boiler when they are it is under pressure of steam, 24 (2) and any A renter, user, or owner of a boiler, or 25 any a person or persons who tamper tampers with the safety

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valve to allow the boiler to carry greater pressure than is
 allowed by the inspection certificate<sub>r</sub> shall be decaded is
 guilty of a misdemeanor.

4 (2) [3] Phore If a boiler is constructed with lap 5 horizontal seams on the boiler, dome, or drum, a factor of 6 four and one-half 4 1/2 shall be used in determining the 7 safe working pressure allowed on such the boiler. But whore 8 the beilers are If a boiler is constructed with butt strap 9 butt strap horizontal seams, a factor of four way be used in 10 determining such the safe working pressure. If a boiler 11 rests on a side wall on lugs, or is bung by I-beams, or is 12 in any way set up so that the weight of the boiler is 13 pulling against the horizontal seam of rivets, a factor of 14 five sust be used to--detersing in detersining the safe 15 working pressure allowed on boiler. Where If the horizontal lap seams of a boiler are exposed to the fire, a factor of 16 17 five sust be used to determine in determining the safe 18 working pressure to be allowed on cuch boiler. On new stay bolts, if now, seven thousand five hundred 7,500 pounds 19 20 pressure per square inch shall be is allowed. If such the stay bolts are corroded or defective, the inspector must 21 22 determine the pressure to be allowed on same them. On braces 23 ade of solid material, oight thousand 8,000 pounds pressure 24 per square inch shall be is allowed. On welded braces or 25 braces with only one erew-feet crowfoot, sis thousand 6,000 LC 0054/01

pounds pressure per square inch shall be is allowed. No cast
 iron shall may be used in the construction or reinforcements
 of any a boiler where if the pressure allowed on said the
 boiler is more than sub-hundred 100 pounds per square inch."
 Section 10. Section 69-1503, R.C.S. 1947, is arended
 to read as follows:

7 "69-1508. Licenses required --- penalty for operating 8 without license. No person shall may be granted a license to operate steam or water boilers and steam machinery under the 9 provisions of this article, who has not set the 10 qualifications for licensing, and been found to be competent 11 12 by examination to perform the duties of an engineer, and received a license so to act. Any A person who operates any 13 a boiler or steam engine without first obtaining a license 14 is guilty of a wisdemeanor, and, upon conviction, shall be 15 penished ... by a fine of not fined no less than fifty dollars 16 \$50 per or more than one-hundred-dellars, \$100 or by 17 isprisonment be imprisoned in the county jail for not more 18 than sisty any term not to exceed 60 days, or by both such 19 20 fine-and-imprisonment." Section 11. Section 69-1509, B.C.H. 1947, is anended 21 22 to read as follows: #69-1509. Classification and licensing of engineers. 23

24 (1) Engineers entrusted with the operation, care, and
25 management of steam or water boilers and steam machinery, as

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specified in the preceding section, must-be are divided into
 four classes, namely; first-class engineers, second-class
 engineers, third-class engineers, and low-pressure
 engineers.

5 (2) Licenses for the operation of steam or water 6 boilers and steam machinery shall be are divided into four 7 classifications in accordance with the following <u>schedule</u>: 8 (a) First-class engineers shall be are licensed to 9 operate all classes, pressures, and temperatures of steam 10 and water boilers and steam driven <u>steam driven</u> machinery 11 with the exception of traction and hoisting engines.

(b) Second-class engineers shall be are licensed to 12 13 operate steam boilers operating not in excess of two hundred 14 fifty-4250+ pounds per square inch gauge saturated steam 15 pressure, or water boilers operating not in excess of three 16 hundred seventy-five-(375) pounds per square inch qauge 17 pressure and four-hundred-fifty-dogrees-Pabrenbeit-(4500-F) 450 degrees ? temperature, and steas-driven steam-driven 18 machinery not to exceed one-hundred (100) horsepower per 19 20 unit, with the exception of traction and hoisting engines. 21 (c) Third-class engineers shall be are licensed to operate steam boilers operating not in excess of one-hundred 22 (100) pounds per square inch gauge saturated steam pressure 23 24 of and water boilers operating not in excess of one--hundred 25 **sinty** (160) pounds per square inch gauge pressure and three

hundred-fifty-degrees Fahrenheit-(350°F) 350 degrees F
 temperature.

3 (d) Low-pressure engineers aball be are licensed to
4 operate steam boilers operating not in encess of fifteen
5 (15) pounds per square inch gauge pressure or and water
6 boilers operating not in encess of fifty (50) pounds per
7 square inch gauge pressure and two hundred fifty degrees
8 Pabronhoit (250 PP) 250 degrees F temperature.

9 (3) Each applicant for an engineer's license shall 10 sust be physically and mentally capable of performing the 11 required duties and meet the following minimum requirements 12 for the class of engineer's license for which application is being made<del>r: Bach-applicant-for-any-classification-must-be</del> 13 14 physically and mostally gapable of performing the required 15 duties for the olass of engineer's livense for which 16 application is being made.

17 (a) Applicants An applicant for a low-pressure 18 engineer's license <del>shall <u>sust</u> have no-less-than-three</del> at 19 least {3} months' full-time experience in the actual 20 operation of a boiler in this classification, and successfully pass a written examination prescribed by the 21 22 division, and has have passed his eighteenth 18th 23 birthday, and is be found to be competent to operate a boiler or boilers in this classification shall be granted a 24 25 low-prossure engineeric licence.

1 (b) **applicants** An applicant for a third-class 2 engineer's license shall sust have no less than six at least 3 -464 souths' full-time experience in the actual operation of ti. a boiler in this classification under an engineer holding a 5 valid third-class or higher license, and successfully pass a written examination prescribed by the division, and has have 6 7 passed his eighteenth (18th) birthday, and is be found to be competent to operate a boiler or--boilers in this 8 Q classification chall-be-granted-a-third-class engineer-s 10 licese.

11 (c) hpplicants An applicant for a second-class
12 engineer's license shall have must:

(1) (i) He less than two have at least (2) years' 13 14 full-time experience in the actual operation of a boiler and 15 steam driven steam-driven machinery in this classification, 16 under an engineer holding a valid second-class or first-class license, and successfully pass a written 17 18 examination prescribed by the division, and has have passed 19 his eighteenth (18th) birthday, and is be found to be 20 competent to operate a poiler or boilers and stoam driven 21 stean-driven machinery in this classification shall-be 22 granted a second class engineer's lisence; or

23 (2) (ii) sold hold a valid third-class engineer's
24 license and have no-loss-than-one at least (1) year's
25 full-time experience in the actual operation of a boiler and

1 etern-dniven stean-driven machinery in this classification, 2 under an engineer holding a valid second-class or 3 first-class license, and successfully pass a written 4 eramination prescribed by the division, and has have passed 5 his eighteenth-(10th) birthday, and is he found to be 6 competent to operate a boiler or beilers and steam driven 5 steam-driven machinery in this classification email-be 8 granted a cocced-class engineer a ligense.

9 (d) Applicants An applicant for a first-class
 10 engineer's license shall-have must:

11 (1) in loss than three have at least (3) years' full-time experience in the actual operation of a boiler and 12 stors driven steas-driven machinery in this classification, 13 under an engineer holding a valid first-class license, and 14 15 successfully pass a written examination prescribed by the division. and have passed his eighteenth (18th) 16 birthday, and is be found to be competent to operate a 17 18 boiler or boilers and stoan driven stean-driven machinery in 19 this classification, shall-be-grassed-a-first-class 20 engineer's-license; et (2) (ii) Hold a valid second-class engineer's 21

22 license and have non-less than one at least (1) year's
23 full-time experience in the actual operation of a boiler and
24 steam driven machinery in this classification;
25 under an engineer holding a valid first-class license, and

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1 successfully pass a written examination prescribed by the 2 division, and have passed his eighteenth {18th} 3 birthday, and is be found to be competent to operate, a 4 boiler or beilers and steas drives steam-driven wachinery in 5 this classification shall be granted a first class 6 engineer's license; or

(3) (iii) Hold bold a valid third-class engineer's 7 license and have ac-loss than two at least (2) year's 8 full-time experience in the actual operation of a boiler and 9 otern driven steam-driven machinery in this classification, 10 under an engineer holding a valid first-class license, and 11 successfully passed a written examination prescribed by the 12 division, and has have passed his eighteenth (18th) 13 birthday, and is be found to be competent to operate a 19 boiler or boilers and steas drives steas-driven sachinery in 15 this classification shall be granted a first-class 16 17 estineerse licence.

18 (0) [4] Allowable exceptions or variances to the
 19 foregoing minimum requirements set out in subsection [3] of
 20 this section are as follows:

21 (1) (a) Applicants An applicant for an engineer's 22 license in any classification holding a valid license in 23 that classification from another state with having licensing 24 requirements equal to or exceeding the foregoing minimum 25 requirements for the state of Montana and set out in <u>subsection (3) of this section</u>, successfully <u>pass passing</u> a
 written examination prescribed by the division, and is found
 to be competent to operate a boiler <del>or boilers</del> and <del>steam</del>
 <u>drives steam-driven</u> machinery in that classification shall
 be granted a license in that classification.

6 (2) (b) Operating experience in a classification
7 accumulated in the United States military services or the
8 merchant marine service satisfactory to the division,
9 accumulated in United States military corvises or the
10 services marine service may be accepted in lieu of the
11 operating experience required for licensing of engineers in
12 each of the foregoing license classifications.

13 (3) (c) Applicants with An applicant having training in 14 the astral operation of steam or water boilers and steam 15 machinery who have has been certified as having satisfactorily completed a prescribed training course from a 16 17 recognized vocational-technical training school or center or 18 other division approved division\_approved institution or training program in the classification for which he is 19 applying may, at the discretion of the division, be credited 20 21 with a maximum of <del>giv (6)</del> wonths' experience toward a first. second, or third-class engineer's license. 22

23 (4)(5) None of the licenses <u>named</u> in <u>subsections (1)</u>
24 <u>and (2) of</u> this section <del>above named shall</del> entitle the <u>its</u>
25 holder thereof to operate a traction engine<sub>r</sub>, <u>but-all</u>

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1 persens 1 person who are is entrusted with the care and 2 management of traction engines, or boilers on wheels, are is required to pass an examination as to thoir testing bis 3 11 competency to operate such that class of machinery and to procure a traction license to be known as a traction 5 license. Such A traction license shall does not entitle the 6 7 its holder thereof to operate any other class of steam 8 machinery specified in the proceeding section. Applicants An applicant for a traction engineer's license shall pust have 9 10 no loss than sim at least (6) months' full-time experience in the operation of steam traction engines, and successfully 11 12 pass a written examination prescribed by the division, and 13 has have passed his eighteenth (18th) birthday, and is be 14 found to be competent to operate a traction engine shall be 15 grassed a traction engineer's lisense. The division, at its 16 discretion, may waive the experience requirement for 17 operators of traction engines which are maintained and 18 operated as a hobby for the restoration and show purposes of 19 antique equipment."

20 Section 12. Section 69-1802, R.C.H. 1947, is amended
21 to read as follows:

\*69-1802. Application of act <u>--- definitions</u>. Sections
69-1801 through 69-1810, B.C.M. 1947, apply to the following
occupancies <u>defined below</u>:

25 (1) "Assembly occupancy" means the occupancy or use of

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a building or structure or any portion thereof by a
gathering of persons for civic, political, travel,
religious, social, or recreational purposes+, including
among others;

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- 5 <u>(a)</u> armories:
- 6 (b) assembly halls:
- 7 (c) auditoriums;
- 8 (d) bowling alleys:
- 9 (e) broadcasting studios;
- 10 <u>(f)</u> chapels;
- 11 (g) churches;
- 12 (h) club rooms;
- 13 (i) dance halls;
- 14 (1) exhibition rooms;
- 15 <u>(k)</u> gymnasiums:
- 16 (1) lecture halls;
- 17 <u>(m)</u> lodge rooms;
- 18 (n) motion picture theaters;
- 19 <u>(o)</u> museums;
- 20 (p) night clubs;
- 21 (q) opera houses:
- 22 (r) passenger stations;
- 23 (s) pool rooms;

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24 <u>(t)</u> recreation areas;

<u>(u)</u> restaurants;

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1	<u>[a)</u>	skating rinks <u>;</u>	1	of a building
2	<u>(v)</u>	television studios;	2	assembling,
3	<u>(I)</u>	theaters <u>: and</u>	3	packaging <u>,</u> or
4	<u>(7)</u>	tavetbs	4	others <del>;</del>
5	(2)	"Business occupancy" means the occupancy or use of	5	<u>(a)</u> assent
6	a buildin	g or structure or any portion thereof for the	6	<u>(b)</u> create
7	transacti	on of business, or the rendering or receiving of	7	<u>(c)</u> electi
8	professio	onal services <sub>t</sub> including among others <sub>t</sub>	8	<u>(d)</u> factor
9	<u>(a)</u>	banks <u>;</u>	9	<u>(e)</u> ice p
10	<u>(p)</u>	barber shops <u>;</u>	10	<u>(f)</u> labora
11	<u>(c)</u>	beauty parlors;	11	(g) laund:
12	<u>(q)</u>	office buildings <u>;</u>	12	<u>(b)</u> sanuf:
13	<u>(e)</u>	radio stations <u>;</u>	13	<u>(i)</u> ∎ills,
14	<u>(f)</u>	telephone exchanges <u>; and</u>	14	<u>(†)</u> power
15	<u>(a)</u>	television stations,	15	(k) proces
16	(3)	"Educational occupancy" means the occupancy or use	16	<u>(1)</u> pumpi:
17	of a buil	lding or structure or any portion thereof by persons	17	<u>(a)</u> repai
18	assembled	i for the purpose of learning or <del>of</del> receiving	18	<u>(B)</u> suoke
19	education	al instruction <sub>t</sub> including among others <u>y:</u>	19	<u>(0)</u> ****
20	<u>(a)</u>	academies <u>:</u>	20	(5) "Inst
21	1 <u>p)</u>	colleges:	21	use of a buildi
22	<u>(c)</u>	libraries <u>;</u>	22	persons harbore
23	<u>(q)</u>	schools <u>; and</u>	23	or other care
24	<u>(e)</u>	universities <u>.</u>	24	detained <sub>†±</sub> incl
25	(4)	"Industrial occupancy" means the occupancy or use	25	<u>(a)</u> asylu

or structure or any portion thereof for fabricating, finishing, manufacturing, processing operations+\_ including among

- ambly plants;
- meries:
- tric substations<u>:</u>
- ories;
  - plants<u>;</u>
  - oratories<u>:</u>
- dries;
- facturing plants;
- ls:
- er plants;
- essing plants<u>;</u>
- ing stations;
- hir garages<u>:</u>
- e houses; and
- shops workshops.
- stitutional occupancy means the occupancy or ling or structure or any portion thereof by red or detained to receive medical, charitable, re or treatment, or by persons involuntarily cluding among others<del>y:</del>
  - uns;

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1 (b) homes for the aged;
2 (c) hospitals;

(d) houses of correction;

<u>(e)</u> day care facilities<u>:</u>

5 <u>(f)</u> infirmaries;

6 <u>(g)</u> jails:

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- 7 (h) norseries;
- 8 <u>(i)</u> orphanages;
- 9 (1) nursing homes;
- 10 <u>(k)</u> penal institutions:
- 11 (1) reformatories;
- 12 (m) samitariums;
- 13 (n) long-term care facilities: and
- 14 (0) boarding homes.

15 (6) "Besidential occupancy" means the occupancy or use
of a building or structure or any portion thereof by persons
17 for whom sleeping accommodations are provided, but and who
18 are not harbored or detained to receive medical, charitable,
19 or other care or treatment, or are not involuntarily
20 detained, including among others, <u>(but nct including</u>
21 single-family private houses):

22 <u>(a)</u> apartments;

23 (b) elub houses clubhouses:

- 24 (c) convents;
- 25 (d) dormitories:

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1 (e) dwellings; 2 (f) hotels: 3 (g) motels: (h) sultifabily bouses; and 4 5 (i) lodging houses. 6 but-not including-single-family-private houses." Section 13. Section 69-1808, B.C.M. 1947, is amended 7 8 to read as follows: 9 \*69-1808. Inspection by fire chiefs, county sheriff 10 sheriffs, or deputy fire marshals -- review of plans by fire 11 marshal --- permits --- notice of inadequate equipment ---12 compliance --- enforcement. (1) Within an incorporated 13 aunicipalities municipality, an educational or institutional 14 occupancy, whether public or private, may not be constructed 15 or have alterations made costing fifteen hundred dollars 16 -{\$1,500} or more unless until sketches or architectural 17 plans for the construction or alteration, whichever are 18 available, are submitted for the construction or alteration 19 to the state fire marshal and approved by him. 20 (2) Outside an incorporated municipalities 21 aunicipality, an assembly, educational, or institutional 22 occupancy may not be constructed or have alterations made 23 costing fiftees hundred-dollars-(\$1,500) or more unless 24 until a permit has been issued for the construction or

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alteration by the county commissioners. A fee of ten-dollars

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-(\$10) shall be paid to the county treasurer for each permit. 1 a copy of eaid the permit shall be furnished to the county 2 assessor. No permit shall may be issued until sketches or 3 architectural plans for the construction or alteration, whichever are available, are submitted for the alteration of 5 construction of the above cocypandies to the state fire 6 7 marshal and approved by him. The fire marshal and county sheriffs are responsible for enforcing the provisions of 8 9 this subsection.

10 (3) A building designed for human occupancy owned or
11 controlled by the state may not be constructed usless until
12 plans for the construction have been submitted to the state
13 fire marshal and approved by him.

(4) It shall be the duty of the Chief of the fire 14 department of each municipality or district where a fire 15 department is established and the county sheriff or deputy 16 fire marshals where no fire department exists at loast once 17 sagh six (6) months to shall enter into all buildings and 18 upon all premises within his their jurisdiction at least 19 once each 6 months for the purpose of the examination of 20 even examining the premises for violations of this act. Such 21 The inspection shall include but shall is not be limited to 22 testing fire alarms, and fire extinguishers, examining fire 23 24 hose, and attachments, and other fire apparatus, and examining fire escapes provided-for-horeis. Copies of such 25

the inspection shall be filed in the office of the state
 fire marshal on forms to be provided by him.

3 (5) When any a building shall-be is found which required requires the erection of fire escapes, and upon 8 5 which fire escapes have not been erected according to the 6 provisions of this act, or if fire hoses, fire extinguishers, fire alarms, or other fire apparatus is found 7 to be lacking or defective or not in good working condition, 8 Q. the person making such the inspection or the state fire 10 marshal shall serve a written notice upon the party or 11 parties whose duty it is to erect such the fire escapes, or 12 maintain such fire apparatus. Said The notice shall specify the time within which <del>said</del> <u>the</u> fire escapes shall be 13 14 erected, or each the defective conditions be remedied, and in-no -case--shall which may not be more than minety (90) 15 16 days, and said The notice shall be decade to have been is served if delivered to the person to be notified, or if left 17 18 with any adult person at the usual residence or place of 19 business of the person to be notified, or if deposited in 20 the post office, directed to the last known address of the 21 person to be notified. In case of whenever buildings within 22 the store of this agt, that are managed and controlled by a 23 board of trustees, board of cossissioners, or other 24 governing body, the notice is served if delivered to the 25 president, secretary, or treasurer of the board of trustees,

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1 board of commissioners, or other governing body, to cause 2 the -- or oftion -- of -- fire-escapes - on said - buildings, as may be 3 regeired; provided, that the occupant or lessee of any 4 building who is required to erect fire escapes under the 5 provisions of this act-shall-be is entitled to reinburse 6 himself for the cost and expense of erecting said the fire 7 escapes out of the rent or lease money of said the premises, 8 and such the reinbursement shall not be construed to be is 9 not a breach of any existing lease, contract, or any 10 covenant thereof ass or grounds for any action or damage 11 ouster.

12 (6) The state fire marshal shall have has general 13 charge and supervision of the enforcement of the provisions 19 of this act, and ouch officers as above enumerated the 15 officers enumerated in subsection (4) of this section shall 16 act under the his general charge and supervision, of the 17 state fire sershal. Said officer shall assist the state fire 18 19 this act, and shall be are subject to his direction and to 20 the rules adopted for the enforcement of this act."

21 Section 14. Section 69-1923, R.C.H. 1947, is amended
22 to read as follows:

23 "69-1923. Storage of explosives in cities, etc. No
24 person, company, or corporation shall may store, deposit, cr
25 keep within one 1 mile of the limits of any a city, town, or

village any powder, gunpowder, giant or Hercules powder, or 1 other highly explosive substance, in greater-quantities than 2 one-hundred excess of 100 pounds, or sore-than-one-thousand 3 1,000 giant caps, at any one time, nor shall-such may 故 explosives be stored, deposited, or kept in any quantities 5 quantity whatever within one 1 mile of such a city, town, or 6 village, except in a magazine constructed as accelentates 7 described, provided for in 69-1907. provided, that this This section shall -- sot -- be -- geastreed to does not prevent any a 9 person, company, or corporation, operating a mine within one 10 11 1 mile of the limits of such a city, town, or village, from 12 storing powder for use in such the mine in the manner prescribed in sections 69-1922 and 69-1924; 69-1907. 13 provided also, that this section shall does not prevent 14 15 the keeping of a reasonable amount of gunpowder, not 16 exceeding fifty 50 pounds, in a safe place for sale." Section 15. Section 69-1925, R.C.M. 1947, is amended 17 18 to read as follows: "69-1925. Hagasines, etc., Transportation vehicle to 19 bear warning signs. Brory storehouse or caguzine constructed 20 21 as-provided-in-the-foregoing--sectiony--in--which--shall--be stoped, -- deposited, -- or kept -ang-powder, - guapowder, - giant- or 22

23 Horculos powder, --giaat -- caps, -or -- other -- highly -- caplosive
 24 substance, shall -- at -- all -- times -- have -- posted -- above -- the -- ontranse

25 thereof a signboard on which shall be painted in seaspicyous

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1 letters not less than four inches in length the words
2 Resplosives desgerous." Every dray, wagen, freight dar, or
3 ether Each vehicle in which shall be explosives are
4 transported, transferred, or delivered any of the caid
5 erplosives, shall bear on each side thereof a similar sign
6 with having the words "explosives\_dangerous" in conspicuous
7 letters not less than two 2 inches in length."

8 Section 16. Section 69-2111, R.C.B. 1947, is amended
9 to read as follows:

"69-2111. Adoption of rules by department. (1) The 10 11 department shall adopt by reference pationally recognized building codes in whole or in part, amend and or repeal 12 13 rules relating to the construction of all buildings or classes of buildings or the installation of equipment in 14 those buildings, and may by rule prescribe standards or 15 requirements for materials to be used in buildings, 16 including provisions dealing with safety, sanitation, and 17 18 conservation of energy. The rules. when adopted as provided 19 in this chapter, constitute the "state building code" and 20 shall be are acceptable for the buildings to which it-is 21 they are applicable.

22 (2) The department may hold bearings relating to the
administration of this act in accordance with the Montana
Administrative Procedure Act.

25 (3) Except as provided in subsection (4) of this

section, no rule, and an anendment, or repeal of the state
 building code shall may take effect until after a public
 hearing by the department.

(4) If a hearing has been held by the dopartment-of 4 5 justice state fire marshal with respect to its his duties contained in Title 82, chapter 12, or by the board of 6 7 plumbers, the department of health and environmental 8 sciences, the board of warm air heating, ventilation, and 9 air conditioning, or the state electrical board, on a proposed rule relating to building and equipment standards 10 in their respective fields, a public hearing by the 11 12 department is not required. The proposed rule is effective 13 upon approval of the department and filing with the 14 secretary of state as a part of the state building code.

15 (5) If a rule relating to building or equipment 16 standards is proposed by the department of justice state 17 fire marshall with respect to its his duties contained in 18 Title 82, chapter 12, or by the board of plumbers, the 19 department of health and environmental sciences, the board 20 of warm air heating, wentilation, and air conditioning, or 21 the state electrical board which conflicts with the state building code, the department after consultation with the 22 23 state agencies affected, shall modify the proposed rule or 24 the state building code to resolve the conflict after 25 consultation-with-the-state-agensies-affected."

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Section 17. Section 69-2701, R.C.H. 1947, is amended
 to read as follows:

3 "69-2701. Fireworks prohibited and defined for the 9 purposes of this act chapter. ar(1) It shall be is unlawful 5 to possess, sell, transport, or use any fireworks within the 6 state of Sontana except as bereinafter provided in this 7 chapter.

8 by (2) The term "fireworks" chall--mean-and-isolude 9 seans any combustible, or explosive composition, or any 10 substance, or combination of substances, or article prepared 11 for the purpose of producing a visible or audible effect by 12 combustion, explosion, deflagration, or detonation, and 13 shall includes sky rockets, Bonen roman candles, 14 Dargo daygo bombs, blank cartridges, toy cannons, toy canes, 15 or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath 16 17 to propel the-same them, firecrackers, torpedoes, sparklers 18 or other fireworks of like construction, and any fireworks 19 containing any explosive of or flammable compound, or any tablets or other device containing any explosive substance. 20 21 Bothing--ia--this--law--shall--be-seastrued-as-applying This 22 chapter does not apply to toy paper caps containing not more 23 less than tweaty-five hundredths (.25) 1/4 of a grain of 24 explosive composition per cap, and to the manufacture, 25 storage, sale, or use of signals necessary for the safe LC 0054/01

operation of railroads or other classes of public or private
transportation, <u>ser-applying</u> to the military or <u>navy naval</u>
forces of the United States or of this state, or to peace
officers, <u>nor as prohibiting or to</u> the sale or use of blank
cartridges for ceremonial, or theatrical, or athletic
events.

7 er(3) It shall be is lawful for any an individual,
8 firm, partnership, corporation, or association to possess
9 for sale within the state, sell or offer for sale, at
10 retail, or use, within the state of Montana, the permissible
11 fireworks horewith enumerated in subsection (4) of this
12 section.

13 (9) Permissible firevorks, shall-include dangerous articles and, nore specifically, shall excluding sky 15 rockets, roman candles, daygo bombs, firecrackers, and bottle rockets, include and be are limited to the following, but specifically excluding sky-rockets, Roman candles and Baygo bombs, firecraskers and bottle reskets: 19 (1) (a) Helicopter helicopter type spinners, the total

20 pyrotechnic composition not to exceed twonty (20) grams each
21 in weight;

22 (2) (b) Cylindrical cylindrical fountains, the total
23 pyrotechnic composition not to exceed tweaty five (25) grams
24 each in weight, The and the inside tube diameter shall not
25 to exceed three-fourths (3/4) of an inch;

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(3) (c) Come fountains, the total pyrotechnic 1 composition not to exceed fifty (50) grams each in weight; 2 total pyrotechnic (4) (d) #bools wheels, the 3 composition not to exceed sixty (60) grams in weight, for 4 each driver unity (but there may be any number of drivers on 5 any one wheel- The and the inside bore of driver tubes 6 shall not to be over one-half (1/2) of an inch; 7

8 (5)(9) Illuminating illuminating torches and colored 9 fire in any form, the total pyrotechnic composition not to 10 exceed one hundred (100) grams each in weight;

11 (6) (f) Sparklors sparklers and dipped sticks, the
12 total pyrotechnic composition not to exceed one-bundred
13 (100) grams each in weight. Pyrotechnic (pyrotechnic
14 composition containing any chlorate shall not to exceed five
15 (5) grams); and

16 (7) [g] Shistles whitles without report, the total
17 pyrotechnic composition not to exceed forty (40) grams each
18 in weight+.

19 <u>(5)</u> It shall be is unlawful for any an individual 20 under the age of eighteen (18) to possess for sale, sell, or 21 offer for sale, within the state of Sontana, permissive 22 fireworks berein enumerated in subsection (4) of this 23 section.

24 (6) It shall be is unlawful for any a wholesaler to
 25 sell or offer for sale, within the state of Montana,

fireworks except as berein defined enumerated in subsection
 <u>(4) of this section</u>. It shall be is lawful for said a
 wholesaler, however, to transport said fireworks within the
 state of Montana for sale outside of the state of Sontana.

5 dv [7] No person, firm, or corporation shall may offer
6 fireworks of any kind as defined-borois for sale at retail
7 before the 24th day of June 24 and after the 5th day of July
8 5.

9 er(8) It shall be is unlawful for any an individual,
10 firm, partnership, or corporation to discharge or cause to
11 be discharged any pyrotechnics of any description whatever
12 within the exterior boundaries of any a state forest, or
13 state park, or state recreation area."

Section 18. Section 69-2702, R.C.N. 1947, is amended
to read as follows:

16 \*69-2702. Supervised public display of fireworks. 17 BROODE-an-horoinaftor-provided, it chall-bo-uplawful-for-any 18 percenty---firay--- departmershipy--association-er-deperation-to 19 POSSOBCy offer for sale, orpose for sale, sell, - or - use - or 20 explode any fireworks - provided that the The state fire 21 marshal and the governing body of any a city, town, or 22 township or county shall have power may, under reasonable 23 rules and regulations adopted by it then, to grant permits 24 for supervised public displays of fireworks to be held therein by sumicipalities, fair associations, assument 25

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1 parks, and other organizations or groups of individuals. 2 Every-such Each display shall be handled by a competent 3 operator, the who must be approved by the state fire marshal 4 or by the governing body of the municipality in which the 5 display is to be held, and shall be of suce a sharacter, and 6 se located, discharged, or fired as, in the opinion of the 7 chief of the fire department or such other officer as may be 8 designated by the governing body of the municipality, after 9 proper inspection, shall not to be hazardous to persons or 10 property er endenger any person or persons. Application for 11 permits shall be made in writing at least fifteen (15) days 12 in--- advance--- of prior to the date of the display. After such 13 the privilege shall have has been granted, sales, 14 possession, use, and distribution of fireworks for such the 15 display shall be are lawful for that purpose only. No permit 16 granted berearder shall be under this section is 17 transferable. The term "municipalities" shall-include 18 includes cities, and incorporated towns or townships."

19 Section 19. Section 69-4428.1, R.C.H. 1947, is amended20 to read as follows:

21 "69-4428.1. Disinterment —permit. (1) A body, after
22 burial, may be disinterred for reinterment or transport,
23 upon obtaining after a permit therefor is obtained from the
24 local registrar of the jurisdiction where the body is
25 interred.

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1	(2) Administration of the act shall be this section is
2	in the department of health and environmental sciences,
3	which shall adopt rules accordingly. The rules shall provide
4	that, as a right precondition to the permit, the applicant
5	make a showing of reasonable cause for the disinterment.
6	(3) This <del>act</del> <u>section</u> provides a supplementary
7	procedure for disinterment of a dead body, and is not
8	amendatory to or repealing of any other act."
9	Section 20. Section 69-4504, R.C.M. 1947, is amended
10	to read as follows:
11	#69-4504. County boards of health <del>composition</del> . There
12	is a county board of health in each county consisting of:
13	(1) the county commissionersy and two (2) members <u>who</u>
14	are appointed by the county commissioners and serve at their
15	pleasure; or
16	(2) five (5) persons who are appointed by the county
17	commissioners and serve at their pleasure. Terms of
18	appointed ∎embers shall be staggered and <del>shall</del> be for <del>thr</del> ⊖e
19	+3+ years each. County The county commissioners shall
20	establish the staggered order of terms and all <del>rogulations</del>
21	<u>rules</u> necessary to establish and maintain the board."
22	Section 21. Section 69-4508, R.C.M. 1947, is amended
23	to read as follows:
24	#69-4508. Financing of local boards of health
25	appropriations — tax levies. (1) Local boards are financed

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by general fund appropriations, special levy appropriations,
 state and federal funds available, and contributions from
 school boards and other official and nonofficial agencies.

(?) Appropriations are made as follows:

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(b) City boards are financed by an appropriation from
the general fund of the city after approval of a budget in
the way provided for other city offices and departments
under <u>Title 11</u>, chapter 14, <u>Title 11</u>, R. Gv. 1947.

14 (c) If a city-county board is created, it is financed
15 by one of the following methods:

(i) The county commissioners and governing body of the 16 each participating city, or cities, may mutually agree upon 17 the division of expenses. The county's part of the 18 total expenses is financed by an appropriation from the 19 general fund of the county after approval of a budget in the 20 way provided for other county offices and departments under 21 Title 16, chapter 19, Title 16, R. C. -8, 1947. The sity, or 22 cities, Each participating city's part of the total costs 23 expenses is financed by an appropriation from the general 24 fund of the city--or--Gitieg-- Participating-in-the 25

1 city county board after approval of a budget in the way 2 provided for other city offices and departments under <u>Title</u> 3 <u>11.</u> chapter 14<del>, Title 11, B. C. B. 1947</del>. All moneys shall be 4 deposited with the county treasurer who shall disburse them 5 as county fundst. OF

6 (ii) In first and second class counties, the county 7 commissioners and governing body of the each participating 8 city,-op-oities, may mutually agree upon the division of the 9 expenses. The gounty countries part of the total expenses is 10 financed by a special levy of not more than five--{5} mills 11 on the taxable valuation of all property outside the 12 incorporated limits of the each participating city, or 13 approval of a budget in the way provided for other county 14 15 16 16, R.C.H. 1947. If the five-(5) mill 5-mill levy is not sufficient to fund the county county's share, the county 17 commissioners may supplement it with an appropriation from 18 19 the county general fund. Each oity, or cities, Larticipating 20 city's part of the total costs expenses is financed by a special levy of not more than  $\frac{1}{2}$  on the tarable 21 22 valuation of all property within the incorporated limits of 23 the city-or-gition-participating-in-the-gity-county--board after approval of a budget in the way provided for other 24 city offices and departments under Title 11, chapter 14, 25

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Titlo-11, B.C.B. 1947. All moneys shall be deposited with
the county treasurer who shall disburse them as county
funds. The special levies authorized by this subsection are
in addition to all other levies authorized by law.

5 (d) District boards are financed by appropriations 6 from the general funds of the counties each county in the 7 district in proportion to the population in each county. First and second class cities which elect to be included in 8 9 the district contribute to the county in which they are 10 located in the way provided for city-county boards under subsection (2) (c) of this section. All funds shall be 11 deposited with the county treasurer of one 44 of the 12 13 counties as agreed upon by the commissioners of the counties 14 in the district. The county treasurer shall disburse the 15 funds as county funds.

16 (3) School boards and other official and nonofficial17 agencies may contribute funds to a local board.

18 (4) If the general fund of a city or county is not
19 sufficient to meet the approved budget, a levy of not more
20 than one-{1} mill may be made on the taxable valuation of
21 all property in the city or county in addition to all other
22 levies authorized by law. This subsection does not apply
23 when the board has been financed under subsection {2} (c) (ii)
24 of this section."

25

Section 22. Section 69-5201, F.C.M. 1947, is amended

1 to read as follows:

\*69-5201. Definitions. As used in this chapter, unless
the context clearly indicates otherwise, the following .
definitions apply:

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(1) "Hospital" means any a health care facility 5 licensed by the department of health -aud - onvironmental 6 seiznes to provide, by or under the supervision of licensed 7 physicians, services for medical diagnosis, treatment, and 8 care of injured, disabled, or sick persons. Services 9 provided may or may not include obstetrical care. A health 10 care facility, in order to be licensed as a hospital, must 11 have an organized medical staff<sub>ta</sub> <del>shall</del> provide <del>tweaty-four</del> 12 (24)-hour 24-hour nursing care by licensed professional 13 nerses, and shall be in compliance with the regulations 14 rules for licensed hospitals as presulgated and adopted by 15 the state department of health and environmental-sciences. 16

(2) "Hospital-related Hospital-related facility" means 17 18 a facility licensed by the department <del>of health and</del> environsestal -- sciences to provide any -- or -- all - of --- - the 19 followings diagnosist, treatments, medical or nursing care, 20 21 or medically related rehabilitation services. Such facilities includer but are not limited to outpatient 22 23 facilities. public health centers, rehabilitation facilities. long-term care facilities, infirmaries, mental 24 25 health and mental retardation institutions, alsohol

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alcoholism and drug dependency centers, and half-way houses.
 health care facility, in order to be licensed as a
 "hespital related hospital-related facility", shall be in
 compliance with the regulations; for the specific category
 of facility, as prosulgated and adopted by the state
 department of health and environmental sciences.

(a) (3) "Outpatient facility--A" means a physically 7 separate component of a licensed hospitaly or a medical 8 clinic or other establishment owned or operated by a 9 licensed physician or physicians, which has an observation 10 bed or beds and which provides to patients, not requiring 11 hospitalization, the services of persons licensed to 12 practice medicine or dentistry in the state of Montana. An 13 Mebsorvation-bodM-is-a-bod-used-by-a-patiest-recovering-from 14 surgery or other treatment. No patient shall may be allowed 15 to remain in an outpatient facility for more than sim-{6}-36 17 hours.

18 <u>(4) An "observation bed" is a bed used by a patient</u>
 19 recovering from surgery or other treatment.

20 (b) [5] "Outpatient facility--B" means a facility 21 operated physically apart from a hospital, other than a 22 medical clinic or other establishment owned or operated by a 23 licensed physician or physicians, which provides to 24 ambulatory patients, not requiring hospitalization, the 25 services of persons licensed to practice medicine or dentistry in the state of Montana, but which does not have
 an observation bed or beds as defined in subsection (2) -- (a)
 (4).

4 (e) (f) "Public health centers center" means a publicly
5 owned facility utilized by a local health unit for the
6 provision of public health services, including related
7 public facilities such as laboratories, clinics, and
8 administrative offices operated in connection with a public
9 health centers center.

10 (4)(7) "Rebabilitation facility" means a facility 11 providing community service which is operated for the 12 primary purpose of assisting in the rehabilitation of 13 disabled persons through an integrated program under 14 competent professional supervision, including+ medical 15 services and evaluation+ and psychological, social, and 16 vocational services and evaluation.

17 (+)(8) (a) "Long-term care facility" means a place
18 which provides skilled nursing care to a total of two (2) or
19 more persons or personal care to more than three (3)
20 persons, who, by reason of illness or disability, are unable
21 to properly care for themselves and are not related to the
22 owner or administrator by blood or marriage, and may-be

23 <u>includes the facilities</u> defined as follows:

24 (i) "Skilled nursing facilities" are establishments25 furnishing continuous skilled nursing care and related

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1 services average four (24) hours a day.

2 (ii) "Intermediate care facilities—A" are
3 establishments furmishing limited skilled nursing care and
4 personal care.

5 (iii) "Intermediate care facilities-B" are
6 establishments providing only personal care and services to
7 residents.

8 (iv) "Combination facilities" are establishments
9 providing two (2) or more of the following services: skilled
10 nursing care and intermediate care---k and/or B.

(+)(b) Botels, motels, boarding houses, rooming
 houses, or similar accommodations providing for transients,
 students, or persons not requiring institutional health care
 are not considered to be long-term care facilities.

15 (f) (9) "Infirmary" means a facility located in a
16 university, college, government institution, or industry,
17 for the treatment of the sick or injured.

18 (i) (10) "Infirmary-A" provides outpatient and
 19 inpatient care.

20 (ii)(11) "Infirmary—B" provides outpatient care only.
 21 (3)(12) "Person" means any an individual, firm,
 22 partnership, association, or corporation, or governmental
 23 unit.

24 (4) (13) "Governmental unit" means the state, a state
 25 agency, any a county, municipality, or political subdivision

1 of the state, or an agency of any a political subdivision.

2 (5)(14) "Resident" means a person who is in a long-term
3 care facility as a patient or for personal care.

4 (6) (15) "Health care facility" means a hospital,
5 hospital related hospital\_related facility, or long-term
6 care facility.

7 (7)(16) "Department" means state the department of
8 health and environmental sciences provided for in Title 82A,
9 chapter 6.

10 (17) "Construction" means the erection, expansion, rencieling, or alteration of any a new or existing facility, 11 12 the capital expenditure for which amounts to fifty-thousand 13 dellars-(\$50,000) or more in any twelve-month 12-month 14 period+ or any substantial change in services, or any 15 increase or decrease in the number of beds in excess of tee 16 17 in excess of tee-(10) beds, whichever is the lessert, or any purchase of therapeutic or diagnostic equipment (excluding 18 19 replacement of existing equipment) is any twelve south 20 12-month periody at a cost exceeding swe-persent-(2%) of the 21 facility's total operating costs for the most recently 22 completed fiscal year up to a maximum of one-hundrod 23 theyarad dollars 4\$ 100,000}, or exceeding ten theyard 24 dellars (\$10,000), whichever is larger. All exemptions from 25 this definition sust nevertheless be consistent with the

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state medical facilities plan of the department." 1 2 Section 23. Section 69-5207, R.C.E. 1947, is amended 3 to read as follows: 4 "69-5207. Denial of application for long-term care facility. The department may deny an application for a 5 long-term care facility license if: 6 (1) it fails to meet minimum standards prescribed 7 8 under section 69-5213: (2) the staff is insufficient in number or unqualified 9 by lack of training or experience; 10 (3) the applicant or any person managing it has been 11 convicted of a felony and denial of a license on that basis 12 is qualified by 66-4003 or the applicant otherwise shows 13 evidence of character traits inimical to the health and 14 15 safety of residents; or (4) it the applicant does not have the financial 16 ability to operate the facility is accordance with law, or 17 rules, or standards adopted by the department." 18 Section 24. Section 69-5502, R.C.M. 1947, is amended 19 to read as follows: 20 #69-5502. Definitions. As used in this chapter, unless 21 the context clearly indicates otherwise, the following 22 definitions apply: 23 (1) "Public swimming pool" means any an artificial 24 25 pool and bathhouses and related appurtenances for swimming,

1 bathing, or wading, including natural hot water pools. The 2 term does not include: 3 (a) swimming pools located on private property used 4 for swimming or bething only by the owner, members of his 5 family, or their invited quests; or 6 (b) medicinal hot water baths for individual use. 7 (2) "Public bathing place" means a body of water and 8 with bathbouses and related appurtenances operated for the 9 public. 10 (3) "Person" means a person, firm, partnership, 11 corporation, organization, the state, or any political 12 subdivision of the state." Section 25. Section 69-6701, P.C.M. 1947, is amended 13 14 to read as follows: #69-6701. Definitions. (1) "Department" means the 15 department of health and environmental sciences provided for 16 17 in Title 824, chapter 6. 18 (2) "Standard serological test" means a test for 19 syphilis, rubella innunity, and blood group, including ABO 20 (Landsteiner blood type designation-0, A, B, AB) and RH 21 (Dd) type, approved by the department." 22 Section 26. Section 69-6704, R.C.K. 1947, is amended 23 to read as follows: 24 #69-6704. Certificate form. The #certificate form# to

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be provided the physician recording the results of the test

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made by the laboratory shall be the same form as that
 provided with respect to the premarital standard serological
 test in meeting 48-135."

Section 27. Section 69-7102, R.C.E. 1947, is amended
to read as follows:

6 "69-7102. Definitions. In this act <u>the following</u>
7 <u>definitions apply:</u>

8 (1) "Department" means the department of health and
9 environmental sciences provided for in Title 82A, chapter 6.
10 (2) "Person" includes an individual, partnership,
11 corporation, or association, or his legal representative or
12 agent.

13 (3) "Connerce" means all connerce within this state
14 and subject to the jurisdiction thereof+ and includes the
15 operation of any business or service establishment.

16 (4) (a) "Hazardous substance" means:

17 (a) (i) Any a substance or mixture of substances which:

18 (A) is toxicy:

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19 (B) is corrosiver:

20 (C) is an irritant;

21 (D) is a strong sensitizer;

22 (B) is flammable or combustible; or

23 (F) generates pressure through decomposition, heat, or
24 other means, if such the substance or mixture of substances
25 may cause substantial personal injury or substantial illness

during or as a proximate result of any customary or
 reasonably foreseeable handling or use, including reasonably
 forseeable ingestion by children+:

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(ii) her substances which the department by rule finds,
 under sociation 69-7103(1), neet the requirements of
 subparagraph (a) (i) of this paragraph subsection (4) (a) (i)
 of this section;

8 (iii) her a radioactive substance, if, with respect to
9 such the substance as used in a particular class of article
10 or as packaged, the department determines by rule that the
11 substance is sufficiently hazardous to require labeling in
12 accordance with this act in order to protect the public
13 health-: or

(iv) lay a toy or other article intended for use by
children which presents an electrical, mechanical, or
thermal hazard, as determined by the department by rule
determines in accordance with section 69-7103(5) of this act
presents an electrical, mechanical, or thermal hazard.

(b) The tern "hazardous substance" does not apply to
pesticides subject to the <u>Federal federal</u> Pesticide
Environmental Control Act or the Bontana <u>Pesticide</u>
<u>Pesticides Act</u>, nor to foods, drugs, and cosmetics subject
to the Hontana Food, Drug, and Cosmetic Act, nor to
substances intended for use as fuels when stored in
cosmainers and used in the heating, cooking, or

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refrigeration system of a house, but the term applies, 1 2 however. to any an article which is not itself a pesticide within the meaning of the **Poderal** <u>federal</u> Pesticide 3 Environmental Control Act or the Montana Pesticide Act, but 8 5 which is a hazardous substance within the meaning of 6 subparagraph (a) subsection (4) (a) of this paragraph section by reason of bearing or containing such a pesticides, the 7 6 The term also applies to pesticides where whenever human health is directly affected from the use or misuse of 9 pesticides requiring an accident investigation for the 10 11 purpose of preparing recommendations to federal or state 12 pesticide control agencies.

(c) The term "hazardous substance" does not include
asy source material, special muclear material, or by-product
material as defined in the Atomic Energy Act of 1954, as
amended, and rules issued pursuant thereto by the atomic
energy commission.

18 (5) "Toxic" means any a substance (other than a
19 radioactive substance) which has the capacity to produce
20 personal injury or illness to man through ingestion,
21 inhalation, or absorption through any body surface.

22 (6) (a) "Highly toxic" means any <u>a</u> substance which
23 falls within any of the following categories:

24 (i) produces death within fourteen -(14) days in 25 one-half (1/2) or more of a group of ten -(10) or more laboratory white rats each weighing between two-hundred
 -{200} and three hundred-(300) grams, at a single dose of
 fifty--{50} milligrams or less per kilogram of body weight,
 when orally administered; or

5 (ii) produces death within fourteen {14} days in б one-half (1/2) or more of a group of ten (10) or more 7 laboratory white rats each weighing between two-hundred 8 9 continuously for a period of one (1) hour or less at an 10 atmosphere concentration of two-hundred---(200) parts per 11 million or less by volume or less of gas or waper or two-12+ 12 milligrams per liter or less by volume er-less of mist or dusty if such that concentration is likely to be encountered 13 by man when the substance is used in any a reasonably 14 15 foreseeable manner: or

(iii) produces death within fourteen--(14) days in
one-half (1/2) or more of a group of ten-(10) or more
rabbits tested in a dosage of two-hundrad--(200) milligrams
or less per kilogram of body weighty when administered by
continuous contact with the bare skin for two ty-four-(24)
hours or less.

(b) If the department finds that available data on
human experience with any a substance indicate results
different from those obtained on animals in the above-named
dosages or concentrations, the human data shall take

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1 precedence.

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2 (7) "Corrosive" means any a substance which in contact
3 with living tissue will cause destruction of tissue by
4 chemical action<sub>y</sub> but does not refer to action on inamimate
5 surfaces.

6 (8) "Irritant" means any a substance not corrosive
7 within the meaning of subsection (7) of this section which
8 on immediate, prolonged, or repeated contact with normal
9 living tissue will induce a local inflammatory reaction.

10 (9) "Strong sensitizer" means a substance which will
11 cause on normal living tissue, through an allergic or
12 photodynamic process, a hypersensitivity.

13 (10) (a) "Extremely flasmable" applies to any a
14 substance which has a flash point at or below tweaty-degrees
15 (30) fabroabeit 20 degrees P, as determined by the tagliabue
16 open cup tester.

17 (a) (b) "Flammable" applies to any a substance which
18 has a flash point of above twonty degrees (20) 20 degrees to
19 and including eighty degrees (80) fabreabeit 80 degrees F,
20 as determined by the tagliabue open cup taster.

21 (b)(c) "Combustible" applies to any a substance which
22 has a flash point above eighty-degrees (80) fahrenheit <u>80</u>
23 degrees to and including one hundred fifty degrees (150) 150
24 degrees F, as determined by the tagliabue open cup tester;
25 except that the

(d) The flasmability or combustibility of solids and 1 of the contents of self-pressurized containers shall be 2 determined by methods found by the department to be 2 generally applicable to such the materials or containers, h respectively, and established by rules issued by the 5 department, which rules shall also define the terms 6 "flasmable", "combustible", and "extremely flasmable" in 7 accord with such the methods used. 8

9 (11) "Badioactive substance" means a substance which
10 emits ionizing radiation.

11 (12) "Label" means a display of written, printed, or 12 graphic matter upon the immediate container ("immediate container" does not include package limers) of any a 13 substance, or, in the case of an article which is unpackaged 14 or is not packaged in an immediate container intended or 15 suitable for delivery to the ultimate consumer, a display of 16 such matter directly upon the article involved or upon a tag 17 18 or other suitable material affired theretor, and a requirement made by or under authority of this act that any 19 a word, statement, or other information appear on the label 20 shall not be considered to be complied with unless such the 21 word, statement, or other information also appears: 22

(a) on the outside container or wrapper, if any,
unless it is easily legible through the outside container or
wrapper; and

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(b) on all accompanying literature where there are (v) an affirmative statement of the principal hazard 1 1 directions for use, written or otherwise. 2 or hazards, such as: 2 3 +13}\_=IInacdiate-sestainer#---dess---net---inslade---paskage з (A) "flammable"-; (B) "combustible"; liners. а . (14) (13) "Misbranded bazardous substance" means a 5 5 "wapor harmful"; (C) hazardous substance (including a toy, or other article 6 (D) "causes burns"; 6 intended for use by children, which is a hazardous 7 (E) "absorbed through skin" $\pi$ ; or 7 substance- or which bears or contains a hazardous substance A (?) similar wording descriptive of the hazard: 8 in such a manner as to be susceptible of access by a child 9 9 (vi) precautionary measures describing the action to be to whom even the toy or other article is entrusted) 10 followed or avoided, except when modified by a rule of the 10 intended, or packaged in a fors suitable for use by the 11 department under section 69-7103(2) or (3); 11 (vii) instruction, when necessary or appropriate, for 12 public or by children, which substance, except as otherwise 12 provided by under 69-7103 (2) or 13 first aid first aid treatment; 13 (3), fails to bear a label: 14 (viii) "poison" for any bazardous substance which is 14 defined as "highly toxic" by subsection (6) of this section: (a) which states conspicuously-; 15 15 (i) the name and place of business of the 16 16 and (ix) instructions for bandling and storage or sanufacturer, packer, distributor, or seller; 17 17 (ii) the common or usual name or the chemical name (if packages which require special care in handling or storage 18 18 there be no is not a common or usual name) of the hazardous 19 19 such\_as: substance or of each component which contributes 20 (A) "keep out of the reach of children" or its 20 substantially to its hazardy unless the department by rule 21 practical equivalenty; or 21 permits or requires the use of a recognized generic name; (B) if the article is intended for use by children and 22 22 23 (iii) the signal word "danger" on substances which are 23 is not a banned hazardous substance, adequate directions for extremely flammable, corrosive, or highly toxic; 24 the protection of children from the hazardy; and 24 (iv) the signal word on all other hazardous substances; 25 (b) on which any a statement required under 25

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subparagraph (a) of this paragraph are subsection [13] fa) of
 this section is located prominently and are is in the
 English language in conspicuous and legible type in contrast
 by typography, layout, or color with other printed matter on
 the label.

6 (15) (15) (a) "Banned hazardous substance" means:

7 (i) any a toy, or other article intended for use by 8 children, which is a hazardous substance, or which hears or 9 contains a hazardous substance in such a manner as to be 10 susceptible of access by a child to whom the toy or other 11 article is entrusted; or

12 (ii) any a hazardous substance intended, or packaged in a form suitable for use by the general public which the 13 department by rule classifies as a "banned hazardous 14 15 substance on the basis of a finding that, notwithstanding 16 such cautionary labeling as is or may be required under this 17 act for that substance, the degree or nature of the hazard 18 involved in the presence or use of substance by 19 the general public is such that the objective of the 20 protection of the public health and safety can be adequately 21 served only by keeping the substance, when so intended or 22 packaged, out of the channels of connerce. However, the 23 (b) The department by rules shall exempt from clause 24 (1) -of this paragraph subsection (14) (a) (i) of this section 25 articles, such as chemical sets, which, by reason of their

functional purpose, require the inclusion of the hazardous substance involved or necessarily present an electrical, mechanical, or thermal hazardy and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient haturity, and may reasonably be expected, to read and heed the directions and warnings.

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8 (b)(c) Proceedings for the issuance, amendment, or
9 repeal of rules under clause (ii) of cubparagraph (a) of
10 this paragraph subsections (14)(a)(ii) and (14)(b) of this
11 section shall be governed by the provisions of section
12 69-7403-of the act subsections (4) and (5) of 69-7103.

13 (16)(15) In article may be determined to present an
14 electrical hazard if, in normal use or when subjected to
15 reasonably foreseeable damage or abuse, its design or
16 manufacture may cause personal injury or illness by electric
17 shock.

18 (47)(16) In article may be determined to present a 19 mechanical hazard if, in normal use or when subjected to 20 reasonably foreseeable damage or abuse, its design or 21 manufacture presents an unreasonable risk of personal injury 22 or illness:

23 (a) from fracture, fragmentation, or disassembly of
24 the articlevi

25 (b) from propulsion of the article (or any a part or

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accessory thereof) Ti (c) from points or other protrusions, surfaces, edges, openings, or closures; (d) from moving parts, (e) from lack or insufficiency of controls to reduce or stop motiony: (f) as a result of self-adhering characteristics of the articler: (g) because the article (or any a part or accessory thereof) may be aspirated or ingested; (h) because of instability; or (i) because of any other aspect of the article's design or manufacture. (18) (17) An article may be determined to present a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces. (19) (18) "Court" means, in section-69-7103 69-7103(5). the district court for the first judicial district, and, in sections 69-7106 and 69-7107, the district court is in the district in which where the violation occurs." Section 28. Section 69-7103, B.C.B. 1947, is amended to read as follows: -61-

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\*69-7103. Declaration of hazardous substance — 1 labeling requirements -- court proceedings. (1) When in the 2 indepent of the department such action will promote the 3 objectives of this act by avoiding or resolving uncertainty a. as to its application, the department may by rule declare to 5 be a hazardous substance, for the purposes of this agt, any 6 7 a substance or mixture of substances which the department finds meets the requirements of <del>subparagraph (a) (i)</del> 8 subsection (4) (a) (i) of ecotion 69-7102(4) 69-7102. 9 10 (2) If the department finds that the requirements of section 69-7102(14) (a) 69-7102(13) (a) are not adequate for 11 the protection of the public health and safety in view of 12 13 the special hazard presented by any particular a hazardous

14 substance, the department may by rule establish such reasonable variations or additional <del>label</del> <u>labeling</u> 15 16 requirements as are necessary for the protection of the 17 public health and safety, and any such a hazardous substance 18 intended, or packaged in a form suitable, for use by the 19 general public or by children, which fails to bear a label 20 in accordance with the rules shall-be is a misbranded 21 hazardous substance.

22 (3) If the department finds that, because of the size 23 of the package involved or because of the minor hazard 24 presented by the substance contained therein, or for other 25 good and sufficient reasons, full compliance with the

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1 labeling requirements otherwise applicable under this act is
2 impracticable or is not necessary for the adequate
3 protection of the public health and safety, the department
4 shall adopt rules exempting even the substance from these
5 requirements to the extent of being consistent with adequate
6 protection of the public health and safety.

7 (4) If the department finds that the hazard of an 8 article subject to this act is such that labeling adequate 9 to protect the public health and safety cannot be devisedy 10 or the article presents an imminent danger to the public 11 health and safety, the department may declare the article a 12 banned hazardous substance and require its removal from 13 commerce.

(5) (a) A determination by the department that a toy
or other article intended for use by children presents an
electrical, mechanical, or thermal hazard shall be made by
rule in accordance with this act.

18 (b) If, before or during a proceeding under paragraph 19 (a) of this subsection (5) (a) of this section, 20 the department finds that, because of an electrical, 21 mechanical, or thermal hazardy distribution of the a toy or 22 other article involved presents an imminent hazard to the 23 public health and the department gives notice of even the 24 finding, the toy or other article shall be is a banned 25 hazardous substance for purposes of this act until the

proceeding has been completed. If not yet initiated when
 the notice is given, the proceeding shall be initiated as
 promptly as possible.

(c) (i) In the case of any a toy or other article 4 5 intended for use by children which is determined by the department to present an electrical, mechanical, or thermal 6 7 hazard, any a person who will be adversely affected by such the a determination may, at any time before the simulate R 60th day after the rule making the determination is issued 9 by the department, file a petition with the court for a 10 Judicial review of such the determination. A copy of the 11 petition shall be immediately transmitted by the clerk of 12 13 the court to the department. The department shall file in the court the record of the proceedings on which the 14 department based its determination. 15

16 (ii) If the petitioner applies to the court for leave 17 to adduce additional evidence, and shows to the satisfaction of the court that such the additional evidence is material 18 19 and that there was no opportunity to adduce such the evidence in the proceeding before the department, the court 20 may order such the additional evidence (and evidence in 21 22 rebuttal thereof) to be taken before the department in a hearing or in such other another manner, and upon such other 23 24 terms and conditions, as the court aay consider considers 25 proper. The department may modify their its findings as to

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the facts, or make new findings, by reason of the additional evidence so taken, and they it shall file such the modified or new findings, and their its recommendation, if any, for the modification or setting aside of their its original determination, with the return of such the additional evidence.

(iii) Upon the filing of the petition under this 7 paregraph subsection (5) (c) of this section, the court has 8 farisdiction to review the determination of the department. 9 If the court ordered additional evidence to be taken under 10 and a subsection (5) (c) (ii) of 11 this section, the court shall also review the department's 12 determination to determine if, on the basis of the entire 13 record before the court under subparagraphs (i) and (ii) -of 14 this paragraph subsections [5] (c) (i) and (5) (c) (ii) of this 15 section, it is supported by substantial evidence. If the 16 court finds the determination is not so supported, the court 17 may set it aside. With respect to any a determination 18 reviewed under this paragraph subsection (5) (c) of this 19 section, the court may grant appropriate relief pending 20 21 conclusion of the review proceedings."

22 Section 29. Section 69-7105, R.C.M. 1947, is amended 23 to read as follows:

24 "69-7105. Penalty — exceptions. (1) Any A person who 25 violates any of the provisions of section 69-7104 is guilty 1 of a misdemeanor and shall be fined and nore than five 2 handrod dollars (\$500) or be imprisoned for not more than 3 any term not to exceed minety---(90) days, or both. For 4 offenses committed with intent to defraud or mislead, or for 5 second and subsequent offenses, the penalty shall be imprisonment for act are than any term not to exceed one 6 -{1} year, or a fine of not no more than three-thousand 7 dollars (\$3,000), or both imprisonment and fine. 8

9 (2) Wo person is subject to the penalties of10 subsection (1) of this section:

11 (a) for having violated soction  $69-7104(3)_{T}$  if the receipt, delivery, or proffered delivery of the bazardous 12 13 substance was made in good faith, unless he refuses to 14 furnish on request of an officer or exployee duly designated 15 by the department  $\tau$  the name and address of the person from 16 whom he purchased or received such the hazardous substance, 17 and copies of all documents, if any there bey pertaining to 18 the delivery of the hazardous substance to him; or

19 (b) for having violated section  $b^{0}-7104(1)_{T}$  if be 20 establishes a guarantee or undertaking signed by<sub>T</sub> and 21 containing the name and address of<sub>T</sub> the person residing in 22 the United States from whom he received in good faith the 23 hazardous substance<sub>T</sub> to the effect that the hazardous 24 substance is not a misbranded hazardous or a banned 25 hazardous substance within the meaning of those terms in the

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1 <u>this</u> act."

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2 Section 30. Section 69-7107, R.C.H. 1947, is amended
3 to read as follows:

۹. #69-7107. Detainer of misbranded or banned hazardcus 5 substance. (1) Whenever If a duly authorized agent of the 6 department finds or has probable cause to believe that any a 7 hazardous substance is a misbranded, or is a banned 8 hazardous substance, within the meaning of this act, he shall affir to each the article a tag or other appropriate 9 10 marking, giving notice that such the article is, or is 11 suspected of beingy misbranded or is a banned hazardous 12 substance and has been detained or exbargoed, and warning 13 all persons not to remove or dispose of such the article by 14 sale or otherwise until permission for removal or disposal 15 is given by such the agent or the court. It shall be is 16 unlawful for any a person to remove or dispose of such a 17 detained or embargoed article by sale or otherwise without 18 such permission.

19 (2) #bee If an article detained or embargoed under
20 subsection (1) has been is found by such the agent to be
21 misbranded or a banned hazardous substance, he shall
22 petition the judge er of the pelice city, county justice's,
23 or circuit district court in whose jurisdiction the article
24 is detained or embargoed for a libel an order of
25 condemnation of such the article. Shop such If the agent

has found finds that an article so detained or embargoed is
not misbranded or a banned hazardous substance, he shall
remove the tag or other marking.

(3) If the court finds that a detained or embargeed 4 article is misbranded or a banned bazardous substance, such S 6 the article shall, after entry of the decree, he destroyed at the expense of the claimant thereofy under supervision of 7 and the agent, and all court costs and fees and storage and 8 9 other proper expenses, shall are to be taxed against the 10 claimant of such the article or his agent, provided, that 11 when If the misbranding can be corrected by proper labeling 12 of the article, the court, after entry of the decree and 13 after such the costs, fees, and expenses have been paid and 14 a good and sufficient bond, conditioned that such the 15 article shall will be so labeled, has been executed, may by order direct that such the article be delivered to the 16 17 claimant thereof for such the labeling under the supervision 18 of an agent of the department. The expense of such the 19 supervision shall be paid by the claimant. The article 20 shall be returned to the claimant on the representation to 21 the court by the department that the article is no longer in violation of this act, and that the expenses of such the 22 supervision have been paid." 23

24 Section 31. Section 69-7108, B.C.H. 1947, is amended 25 to read as follows:

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#69-7108. Duties of department and county attorney. It 1 is the daty of the department or the county attorney to whom 2 the department reports any a violation of this act, to cause 3 appropriate proceedings to be instituted in the proper B courts without delay and to be prosecuted in the manner 5 required by law. Before easy a violation of this act is 6 reported to any gues a county attorney for the institution 7 of a criminal proceeding, the person against whom such the 8 proceeding is contemplated shall be given appropriate notice Q and an opportunity to present his view views before the 10 department, either orally or in writing, and either in 11 person or by attorney, with regard to such the contemplated 12 proceeding." 13

14 Section 32. Section 69-7110, R.C.H. 1947, is amended 15 to read as follows:

16 \*\*69-7110. Powers <u>and duties</u> of department's agents.
17 (1) For enforcement of this act, officers or employees duly
18 designated by the department, upon presenting appropriate
19 credentials to the owner, operator, or agent in charge, are
20 authorized to:

(a) 40 enter, at reasonable time, any times a factory,
varehouse, or establishment in which hazardous substances
are manufactured, processed, packed, or held for
introduction into commerce or are held after such
introduction; eff

(b) to enter any a vehicle being used to transport or
 hold such hazardous substances in commerce;

3 (b) (c) to inspect, at reasonable times, and within
4 reasonable limits, and is a reasonable manner, such a
5 factory, warehouse, establishment, or vehicle, and all
6 pertinent equipment, finished and unfinished materials, and
7 labeling therein; and

6 (5) (d) to obtain samples of such materials or packages
9 or labeling thereof, or of such labeling.

10 (2) If the officer or employee obtains any a sample,
11 prior to leaving the premises, he shall pay or offer to pay
12 the owner, operator, or agent in charge for ouch the sample
13 and give a receipt describing the samples obtained.

(3) The department will shall conduct investigations 14 of reported accidental injuries, illnesses, and deaths 15 resulting from the use or misuse of all hazardous 16 substances, as defined by 69-7102(4)(a)(i), intended or 17 suitable for use by the general public as defined ander 18 <u>costist---69-7102(4)(a)(i)</u>. Investigations will shall 19 20 evaluate the causative hazardous substance and circumstances of the accident for enforcement of this act. Where If the 21 offending hazardous substance is a pesticide regulated by 22 another agency as under the Federal federal Environmental 23 24 Pesticide Control Act or the Bontana Pesticide Pesticides Act, the investigation will shall yield recommendations to 25

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1	the appropriate regulating agency for appropriate action."
2	Section 33. Section 82-1201, R.C.N. 1947, is amended
3	to read as follows:
ů,	"82-1201. <del>Creationof-office-ofatatefire</del> <u>Fire</u>
5	marshal fire prevention advisory - commission burgau.
6	(1) There is <del>an office of state</del> <u>a</u> fire marshal <del>, <u>bureau</u> in</del>
7	the department of justice which is under the supervision and
8	control of the <del>compissioner of insurance</del> <u>attorney general</u> .
9	(2) The <del>state</del> <u>chief of the</u> fire marshal <u>bureau</u> shall
10	be appointed by the <del>connissioner of incerance</del> <u>attorney</u>
11	general and shall serve at his pleasure. The chief of the
12	fire parshal bureau is the state fire marshal.
13	(3) A person appointed state fire marshal shall:
14	(a) have <del>at least ton (</del> 10 <del>)</del> years of progressively
15	responsible experience in fire protection; er
16	(b) <u>have</u> a degree in engineering from a recognized
17	institution of higher education and <del>two(</del> 2) years'
18	experience in fire protection; or
19	(c) have a degree from a recognized institution of
20	higher education in fire protection engineering or fire
21	protection technology.
22	<del>{\$}Bot-lator-than-thirty-{20}daysafterthisast</del>
23	becomeseffectivethecopminectonerofinsuranceshall
24	appoint a fire-prevention advicery conniccion composedof
25	the-fellowing-members:

1	<del>{s}Ozeporgozrepreseztingthefireinsuranse</del>
2	industry-whose initial-term-shall-be-for-one-{\}-yeart
3	<del>{b}Cze-persencoprosentingindentrywhose</del> initial
4	tore-shall-bo for-one-(1) year;
5	<del>(6)OROPOEGORECPECCERtingEull-timePaidfire</del>
6	dopartmosts those isitici-torn shall be for two (2) years;
7	<del>(d)Ome-persen-representing-volunteer-fire-departsente</del>
8	whege-isitial-tors-chall-be-for-two-(2)-yeare;
9	<del>{e}Ome-person-representing architectsofthestate</del>
10	whose-initial-torm-shall-be-for-three-{3}-goarst
11	<del>{\$}One-personpepresenting-the-public-whoce-initial</del>
12	tore-shall-be-for four-(4)- years;
13	<del>{g} The-cossicsioner-of-incurance.</del>
14	After-termination-oftheinitialterm,allmembers
15	shallbeappointedforfoar(4)yearterscAppointed
16	acabors-of the-cossission-chall-be-reizbarsedforzectings
17	<del>atthesateeftwentydellare (\$20)-per-day-plus-actual</del>
18	expenses including mileage, food, and lodging. The
19	compissionorofinsurance-shall-corve-ac-shairmany-and-the
20	<del>state-fire-parshal-shall-scer</del> tassecretaryeftht
21	<del>Cobriggion,</del> "
22	Section 34. Section 82-1202, R.C.E. 1947, is amended
23	to read as follows:
24	#82-1202. Powers <del>of the state</del> <u>and duties of</u> fire

25 marshal. (1) The state fire marshal shall:

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1 (1) (a) Sake make at least one inspection during overy 2 <u>a</u> year, of each state institution, and submit a copy of the 3 report to the state department of institutions with 4 recommendations in regard to fire prevention, fire 5 protection, and to the public safety-:

6 (2)(b) dake make at least one inspection during every 7 a year, of each unit of the Bontana university system, and 8 submit a copy of the report to the essentive corretary of 9 the university system commissioner of higher education with 10 recommendations in regard to fire prevention, fire 11 protection, and to the public safety-:

12 (3)(c) Taspect inspect public, business, or industrial
13 buildings and require conformance to law or and rules
14 promulgated under the provisions of this act, chapter; and

15 (4+) (d) De do all things necessary and convenient for 16 carrying into effect the fire prevention laws of this state.

#### 17 governing-this-agt-and

18

#### (2) The state fire marghal mayr:

19 (6) adopt necessary rules <u>necessary</u> for safeguarding
 20 <u>lives life</u> and property from the hazards of fire and
 21 erplosion-; and Rules shall be adopted as pressribed in the
 22 "Bontana Administrative Procedure Lot",

(b) If fire protection rules are violated, the fire
 parshal may if necessary to safeguard life and property
 under rules promulgated pursuant to this section, waintain

2 building or facility, or restrain a specific activity, until
3 there is compliance with the rules.
5 (5) -Bulow relating to building and equipment etandaries
5 covered by the state or a sumicipal building code are
6 effective after approval by the department of adsinistration
7 and filing with the secretary of state.
6 (3) Bules shall be adopted as prescribed in the

an action to enjoin the use of all or a portion of a

# 9 <u>Hontana Adpinistrative Procedure Act.</u>"

1

Section 35. Section 82-1215, R.C.M. 1947, is amended
to read as follows:

12 #82-1215. Duties of marshal and deputies in case of 13 violation of law -- false swearing or contemptuous conduct 14 of witnesses. (1) If the state fire marshal or a deputy fire 15 marshal <del>shall be is</del> notified by any an officer or other 16 persons, person or shall-bare-knowledge knows of any a 17 violation of any of the provisions of this act, or of the laws of this state relating to fires, it-shull be his duty 18 he shall forthwith inmediately and diligently to inquire 19 into the facts of such the violationy, and for that purpose 20 21 be The state fire marshal or a deputy fire marshal is kereby authorized to gauge subpostant to be have a subpoena issued 22 23 for such-persons a person as he shall-have has reason to 24 believe have any has information or knowledge concerning, - as 25 knowledge of such a violation, of the laws relating to

1 fires. The subpoena shall command the person to appear 2 before a justice of the peace at the time and place to-be 3 designated in the subpoena, then and to testify 4 concerning any a violation of any-of-the-provisions-of--cush 5 laws; the laws relating to fires. and for that Por the 6 purpose of having a subpoend issued, the said state fire 7 marshal or deputy fire marshal may file with some a justice 8 of the peace a written statement signed by said the state 9 fire marshal or deputy state fire marshal, alleging any a 10 violation of the laws of this state relating to fires,------11 eny of the provisions of this act, and naming the witness to 12 be suppoened, and said The justice of the peace shall then, 13 upon the written practice of the state fire warshal or 14 deputy-state fire marchaly issue a subpoena for the witness named in said practice, connanding such vitness him to be 15 16 and appear before such the justice of the peace at the time 17 designated in such the subpoenar to testify concerning any a 18 violation of the provisions of said laws the laws relating 19 to fires. Such subposes The subpose may be served by the 20 sheriff or any constable peace officer of the county, or by 21 any other person who is a citizen of the county, and shall 22 be served and returned to such the state fire marshal, or--a 23 deputy state fire marshal, or a justice of the peace, in the 24 same manner that subpoenas are served and returned when 25 issued by justices of the peace. Back The witness shall be

sworn to make true answers to all questions touching the 1 matters under investigation propounded to him touching the 2 matters - under - investigation, and the his testimony of each 3 witness shall be reduced to writing and be signed by the witness him. For the purpose of this act, the state fire 5 marshal or a deputy state fire marshal shall have -authority á is authorized to administer an oath to any a person 7 8 appearing as a witness as above provided in a proceeding investigating a violation of the laws relating to fires. 9 False swearing in such a satter or proceeding shall be is 10 perjury and shall be punished as such. hay disobodience 11 Disobedience to such a subpoena, or any refusal to be sworn 12 as a witness, or to sign the testimony given by such a 13 witness, or any refusal to answer any a proper question 14 propounded to bie, shall be a witness is a misdemeanor, and 15 any a person convicted thereof shall be punished by -- fine 16 of not fixed no more than one hundred dellars, \$100 or by 17 imprisonment be imprisoned in the county jail for not more 18 then minety days any term not to exceed 90 days, or by both 19 20 such fine-and-imprisonsent.

21 (2) Justices of the peace A justice of the peace, when
22 acting under the provisions of this act, shall have power to adjourn such proceedings from time to time, and to punish any a witness for contempt for, or on account because
25 of his refusal to be sworn, or to answer questions as a

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witness, or to sign his testimony, and the The justice of 1 the peace may compel the attendance of witnesses may be by 2 auch-instige-of the page compelled by attachment. If the 3 testimony so taken shall-disclose discloses the fact that an а offense has been committed, the county attorney of the 5 county in which said the offense was consitted shall 6 prosecute the person or-persons committing such the offense 7 in the same manner as in other criminal cases." 8

9 Section 36. Section 82-1226, R.C.E. 1947, is amended
10 to read as follows:

#82-1226. Records of fire sarshal. The state fire 11 marshal shall keep in his office a record of all fires 12 occurring in the state, the origin of such the fires, and 13 all facts, statistics, and circumstances relating thereto, 14 which have been determined by investigations under the 15 provisions of this chapter, Bacept and, ercept for the 16 testimony given upon during an investigation, such the 17 record shall be open at all times to public inspection." 18

19 Section 37. Section 82-1229, R.C.M. 1947, is amended20 to read as follows:

\*82-1229. Annual reports to commissioner of insurance.
The state fire marshal shall make an annual report to the
commissioner of insurance, attorney general containing a
detailed statement of his official action and the
transactions of his department. The commissioner of

insurance and the attorney general shall, in turn, submit
 eaid the report to the governor of the state, with such
 recommendations and comments thereon as he may does
 <u>considers</u> necessary."

5 Section 38. Section 94-5-615, R.C.M. 1947, is amended
6 to read as follows:

7 "94-5-615. Definitions. As used in this act the

8 <u>following definitions apply</u>:

9 (1) "Department" means the department of health and
10 environmental sciences provided for in Title 82%, chapter 6.
11 (2) "Pacility" means a hospital, health care facility,

12 physician's office, or other place in which an abortion is 13 performed.

(3) (a) "Informed consent" means voluntary consent to
an abortion by the woman upon whom the abortion is to be
performed only after full disclosure to her by the physician
who is to perform the abortion of such of the following
information as is reasonably chargeable to the knowledge of
such the physician in his professional capacity:

20 (a) (i) The the stage of development of the fetus, the
21 method of abortion to be utilized, and the effects of such
22 abortion method upon the fetus-:

23 (b) (ii) The the physical and psychological effects of
 24 abortion; and

25 (0) (iii) Available available alternatives to abortion,

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1 including childbirth and adoption.

2 (b) Such informed Informed consent may be evidenced by 3 a written statement in the a form prescribed by the t, department and signed by the physician and the woman upon 5 whom the abortion is to be performed in which the physician 6 certifies that he has made the full disclosure provided 7 above and in which the woman upon whom the abortion is to be 8 performed acknowledges that the above disclosures have been 9 sade to her and that she volustarily consents to the 10 abortion.

(4) "Abortion" means the performance of, or assistance
or participation in the performance of, or submission to, an
act or operation intended to terminate a pregnancy without
live birth.

15 (5) "Viability" means the ability of a fetus to live
16 outside the mother's womb, albeit with artificial aid."

 17
 Section 39. Repealer.
 Sections
 41-2101
 through

 18
 41-2108, 69-1924, and 82-1232, R.C.M.
 1947, are repealed.

-End-

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#### HOUSE MEMBERS

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ROSE WEBER EXECUTIVE DIRECTOR

PAMELA DUENSING ADMINISTRATIVE ASSISTANT

ROBERTA MOODY SUPERVISOR, ALTER SYSTEM

# Montana Legislative Council

Stale Capitol Helena, 59601

LC 0054

1977 Legislature Code Commissioner Bill - Summary

Senate Bill No. 29

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HEALTH AND SAFETY.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 27-706. "Such" was changed to "the article" in the last sentence of subsection (3) [former subsection (c)] for clarification.

Section 2. 27-707. Because recodification will split this section, it was necessary to change "any such attorney" to "a state or county attorney".

27-722. "Or" was added and "enter" was deleted Section 3. in the first sentence for grammatical reasons and for clarification.

Section 4. 27-805. "The" act was changed to "this" act for grammatical reasons and for clarification.

Section 5. 50-480.7. The internal reference to "50-480.2" was changed to "50-480.3" for clarification and to correct an apparent misprint.

54-301. "The following definitions apply" Section 6. was added in order to make the lead-in phrase a complete thought, thereby correcting certain punctuation problems in this long definitional section. "Of" was changed to "or" in subsection (6) for clarification and to correct an apparent misprint. "Or" was added in subsection (22) for grammatical reasons.

Section 7. 54-319. "Or" was changed to "of" in subsection (1), and the internal reference to "54-317" was changed to "54-318" in subsection (2) for clarification and to correct an apparent misprint.

SENATE MEMBERS

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CARROLL GRAHAM

FRANK HAZELBAKER

DIANA DOWLING DIRECTOR, LEGAL SERVICES; CODE COMMISSIONER

ROBERT PERSON DIRECTOR, RESEARCH



Section 8. <u>69-1401</u>. "And" was changed to "of" for grammatical reasons.

Section 9. <u>69-1504</u>. "The" and "a" were added throughout subsection (3) [former subsection (2)] for grammatical reasons.

Section 10. <u>69-1508</u>. "Been" was added for grammatical reasons.

Section 11.  $\underline{69-1509}$ . Grammatical changes were made throughout subsections (3), (4), and (5) [formerly subsections (3) and (4)].

Section 12. <u>69-1802</u>. "Defined below" was added to the lead-in phrase of this section for clarification.

Section 13. <u>69-1808</u>. This section was amended to add language to subsection (5) that was apparently left out. The added language is necessary for clarification.

Section 14. <u>69-1923</u>. "Constructed as hereinafter provided" was changed to "constructed as provided in 69-1907" in the first sentence for clarification. The internal reference to "69-1924" was changed to "69-1907" because 69-1924 is repealed by section 39 of this bill, and because 69-1907 provides for the construction and location of magazines (as had 69-1924). Other changes were grammatical or for purposes of style.

Section 15. <u>69-1925</u>. The first sentence was deleted as unnecessary and inconflict with other, more modern sections. This section was originally enacted to compliment 69-1924, which will be repealed by section 38 of this bill.

Section 16. <u>69-2111</u>. "The department of justice" was changed to "the state fire marshal" in subsections (4) and (5) for clarification and to aid recodification. This is also in line with the amendment to 82-1201 in section 32 of this bill.

Section 17. <u>69-2701</u>. "Possess", added in the first sentence, is from the language deleted from 69-2702 by section 18 of this bill. "Of" was changed to "or" in subsection (1) [former subsection b.] for clarification and to correct an apparent misprint. "In subsection (4) of this section" was added in subsections (3), (5), and (6) for clarification and to aid recodification. All other changes were for grammatical reasons.

Section 18. <u>69-2702</u>. Language through "provided that" was deleted in the first sentence as unnecessary duplicating language (69-2701 contains similar language having the same effect). "Hereunder shall be" was changed to "under this section is" in the second to last sentence for clarification, for grammatical reasons, and to aid recodification. All other changes were for grammatical reasons. Section 19. <u>69-4428.1</u>. "The act shall be" was changed to "this section is" in subsection (2) for clarification, for grammatical reasons, and to aid recodification. "This act" was changed to "this section" in subsection (3) for clarification and to aid recodification.

Section 20. <u>69-4504</u>. "Who are" was added to subsection (1) for grammatical reasons.

Section 21. <u>69-4508</u>. "It is financed by one of the following methods" was added to subsection (2)(c) to correct certain punctuation problems and to aid in recodification. "The city or cities" was changed to "each participating city" throughout the section, and "the county" was changed to "each county" in subsection (2)(d) for clarification.

Section 22. <u>69-5201</u>. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification. "Alcohol" was changed to "alcoholism" in subsection (2) for clarification. "May be" was changed to "includes the facilities" in subsection (8) (a) [former subsection (2)(e)] for clarification and for grammatical reasons.

Section 23. <u>69-5207</u>. "A" was added in the lead-in phrase for grammatical reasons. "And denial of a license on that basis is qualified by 66-4003" was added to clarify that denial of a license on the basis of a felony conviction is qualified by 66-4003.

Section 24. <u>69-5502</u>. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification. "And" was changed to "with" for clarification.

Section 25. <u>69-6701</u>. "The" was added for grammatical reasons.

Section 26. <u>69-6704</u>. "The" was added for grammatical reasons.

Section 27. <u>69-7102</u>. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification. Subsections were added to "69-7103" in subsections (13) [former subsection (14)], (13) (a) (vi), (14) (c) [former subsection (15) (c)], and (18) [former subsection (19)] for clarification and to aid recodification (69-7103 will be substantially split up in recodification). "Or" was changed to "of" in subsection (13) (a) (ix) and "are" was changed to "is" in subsection (13) (b) for clarification and grammatical reasons.

Section 28. <u>69-7103</u>. The internal reference to "69-7102(14)(a)" was changed to "69-7102(13)(a)" because of certain amendments to 69-7102 in section 26 of this bill.

Section 29. <u>69-7105</u>. "The act" was changed to "this act" in subsection (2)(b) for clarification and grammatical reasons. The language in subsection (1) was amended to bring this penalty subsection into conformity with language used in Montana's Criminal Code of 1973.

Section 30. <u>69-7107</u>. "Or" was changed to "of" in subsection (2) for clarification, for grammatical reasons, and to correct an apparent misprint.

Section 31. <u>69-7108</u>. Because recodification will split this section, it was necessary to change "any such attorney" to "a county attorney". "And either in person" was added to clarify that a petitioner can present his views either in person or by attorney.

Section 32. <u>69-7110</u>. "Will" was changed to "shall" in subsection (3) for clarification. "As" was changed to "under" in the last section for clarification.

Section 33. <u>82-1201</u>. "An office of state fire marshal" was changed to "a fire marshal bureau in the department of justice" and "commissioner of insurance" was changed to "attorney general" to bring this section into conformity with current law. "The chief of the fire marshal bureau is the state fire marshal" was added to aid recodification and to aid in clarifying many sections in the Code referring to the state fire marshal. Subsection (4) was deleted as unnecessary (there is currently no fire prevention advisory commission and the fire marshal is now under the attorney general, not the commissioner of insurance).

Section 34. 82-1202. "The executive secretary of the university system" was changed to the "commissioner of higher education" in subsection (1)(b) [former subsection (2)] to bring this section into conformity with current law. Former subsection (5) was deleted as unnecessary because 82-1202.1(2), dealing with rules promulgated by the fire marshal, has the same language having the same effect. All other changes were made for purposes of clarification and for grammatical reasons.

Section 35. 82-1215. Because this section will be substantially split up in recodification, it was necessary to amend it throughout for purposes of clarification. All amendments, except a few grammatical changes, are necessary for purposes of recodification.

Section 36. <u>82-1226</u>. This section was amended to correct certain punctuation problems and to aid recodification.

Section 37. <u>82-1229</u>. References to "the commissioner of insurance" were changed to "the attorney general" to bring this section into conformity with current law. Section 38. <u>94-5-614</u>. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification.

Section 39. <u>Repealer</u>. Sections 41-2101 through 41-2108, relating to the Labor Safety Study Commission, were repealed as unnecessary since this commission has been abolished by the legislature. Section 69-1924, relating to the construction and location of magazines for the storage of explosives, was repealed as outdated, unnecessary, and in conflict with other, more modern sections of the Code. Section 82-1232, relating to the powers of the commissioner of insurance with respect to the powers granted to the state fire marshal, was repealed as unnecessary and in conflict with current law -the commissioner of insurance no longer is vested with these powers. 45th Legislature

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Approved by Committee on Public Health,Welfare & Safety

1		SENATE BILL NO. 29	
2	INTRODUCED BY	BLAYLOCK	

4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY PEWISE AND
5	CLARIPY THE LAWS RELATING TO HEALTH AND SAPETY; AMENDING
6	SECTIONS 27-706, 27-707, 27-722, 27-805, 50-480.7, 54-301,
7	54-319, 69-1401, 69-1504, 69-1508, 69-1509, 69-1802,
8	69-1808, 69-1923, 69-1925, 69-2111, 69-2701, 69-2702,
9	69-4428.1, 69-4504, 69-4508, 69-5201, 69-5207, 69-5502,
10	69-6701, 69-6704, 69-7102, 69-7103, 69-7105, 69-7107,
11	69-7108, 69-7110, 82-1201, 82-1202, 82-1215, 82-1226,
12	82-1229, AND 94-5-615, R.C.M. 1947; AND REPEALING SECTIONS
13	41-2101 THROUGH 41-2108, 69-1924, AND 82-1232, R.C.H. 1947."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 27-706, R.C.M. 1947, is amended to
read as follows:

"27-706. Detention or embargo of adulterated or 18 misbranded articles -- condemnation proceedings -- immediate 19 20 abatement of nuisances. (a) (1) #honever-a-duly-authorized If an agent of the department finds or has probable cause to 21 22 believe that any food, drug, device, or cosmetic is 23 adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of this act, he shall aftix to 24 25 such the article a tag or other appropriate marking, giving There are no changes in  $\underline{B2Q}$ , & will not be re-run.

T ease refer to white copy for complete text. SECOND READING

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1 notice that such the article is  $\tau$  or is suspected of being  $\tau$ adulterated or misbranded and has been detained or embargoed 2 3 and warning all persons not to remove or dispose of such the ш article by sale or otherwise until permission for removal or 5 disposal is given by such the agent or the court. It shall 6 be is unlawful for any a person to remove or dispose of ouch 7 a detained or embargoed article by sale or otherwise without 8 such permission.

9 -(b) (2) When If an article detained or embargoed under 10 subsection (a) (a) has been is found by such the agent to be 11 adulterated or misbranded, he shall petition the justice of 12 peace, police city judge, or district court in whose 13 jurisdiction the article is detained or embargoed for a 14 libel an order for condemnation of such the article. When 15 such If the agent has found finds that an article so 16 detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking. 17

18 (3) If the court finds that a detained or embargoed 19 article is adulterated or misbranded, such the article 20 shall, after entry of the decree, be destroyed at the 21 expense of the claimant thereof  $\tau$  under the supervision of 22 such the agent, and all court costs and fees and storage and 23 other proper expenses shall be taxed against the claimant of 24 such the article or his agent t. provided, that when If the adulteration or misbranding can be corrected by proper 25

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1 labeling or processing of the article, the court, after 2 entry of the decree and after such the costs, fees, and 3 expenses have been paid and a good and sufficient bond, 4 conditioned that such the article shall will be so labeled 5 or processed, has been executed, may by order direct that 6 such the article be delivered to the claimant thereof for 7 such the labeling or processing under the supervision of an 8 agent of the department. The expense of such the supervision 9 shall be paid by claimant. Such The article shall be 10 returned to the claimant of .... the ... article on the 11 representation to the court by the department that the 12 article is no longer in violation of this act, and that the 13 expenses of sech the supervision have been paid.

14 (d) (4) Whenever the department or any of its 15 authorized agents shall find in any room, building, vehicle 16 of transportation, or other structure, any meat, sea food, 17 poultry, vegetable, fruit, or other perishable articles 18 article which are is unsound, or oontain contains any 19 filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the 20 21 same article being hereby declared to be a nuisance, the 22 department or its authorized agenty shall forthwith 23 immediately condemn or destroy the same article or in any 24 other manner render the same article unsalable as human 25 food."

Section 2. Section 27-707, R.C.M. 1947, is amended to
 read as follows:

3 "27-707. Proceedings to be instituted and prosecuted 4 without delay -- defendant's right to be heard by department. It-shall-bo the duty of each Each state attorney 5 or county attorney, to whom the department reports any d 6 7 violation of this act, .....to shall cause appropriate 8 proceedings to be instituted in the proper courts without 9 delay and to be prosecuted in the manner required by law. 10 Before any a violation of this act is reported to any such a 11 state or county attorney for the institution of a criminal proceeding, the person against whom such the proceeding is 12 13 contemplated shall be given appropriate notice and an 14 opportunity to present his views before the department or its designated agent, either orally or in writing, and 15 either in person or by attorney, with regard to such the 16 17 contemplated proceeding." 18 Section 3. Section 27-722, R.C.M. 1947, is amended to 19 read as follows: 20 "27-722. Department's----access---to---buildings------and 21 presises cramination of supples Inspections and taking of

- 22 samples authorized. [1] The department or its authorized
- 23 agents shall have free access at all reasonable hours to any
- 24 factory, warehouse, or establishment in which foods, drugs,
- 25 devices, or cosmetics are manufactured, processed, packed,

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1	SENATE BILL NC. 29				
2	INTRODUCED BYBLAYLOCK				
3					
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND				
5	CLARIFY THE LAWS RELATING TO HEALTH AND SAFETY; AMENDING				
6	SECTIONS 27-706, 27-707, 27-722, 27-805, 50-480.7, 54-301,				
7	54-319, 69-1401, 69-1504, 69-1508, 69-1509, 69-1802,				
8	69-1808, 69-1923, 69-1925, 69-2111, 69-2701, 69-2702,				
9	69-4428.1, 69-4504, 69-4508, 69-5201, 69-5207, 69-5502,				
10	69-6701, 69-6704, 69-7102, 69-7103, 69-7105, 69-7107,				
11	69-7108, 69-7110, 82-1201, 82-1202, 82-1215, 82-1226,				
12	82-1229, AND 94-5-615, R.C.M. 1947; AND REPEALING SECTIONS				
13	41-2101 THROUGE 41-2108, 69-1924, AND 82-1232, R.C.M. 1947."				
14					
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:				
16	Section 1. Section 27-706, R.C.M. 1947, is amended to				
17	read as follows:				
18	<b>#27-706. Detention or embargo of adulterated or</b>				
19	misbranded articles condemnation proceedings immediate				
20	abatement of nuisances. <del>(a)<u>(1)</u> #honewor-a duly authorized</del> <u>If</u>				
21	an agent of the department finds or has probable cause to				
22	believe that any food, drug, device, or cosmetic is				
23	adulterated $_{m{ au}}$ or so misbranded as to be dangerous or				
24	fraudulent within the meaning of this act, he shall affix to				
25	<del>such <u>the</u> article a tag or other appropriate marking, giving</del>				
There are no changes in $3829$ , & will not be re-run.					
Please refer to white copy for complete text. THIRD READING					

1 notice that such the article is  $\tau$  or is suspected of being  $\tau$ 2 adulterated or misbranded and has been detained or embargoed 3 and warning all persons not to remove or dispose of such the a article by sale or otherwise until permission for removal or 5 disposal is given by such the agent or the court. It shall б be is unlawful for any a person to remove or dispose of such 7 a detained or embargoed article by sale or otherwise without R such permission.

9 -{b}-(2) When If an article detained or embargoed under subsection (a) (1) has been is found by such the agent to be 10 11 adulterated or misbranded, he shall petition the justice of 12 peace, police city judge, or district court in whose 13 jurisdiction the article is detained or embargoed for a libel an order for condennation of such the article. Shen 14 such If the agent has found finds that an article so 15 detained or embargoed is not adulterated or misbranded, he 16 17 shall remove the tag or other marking.

18 (c) (3) If the court finds that a detained or embargoed article is adulterated or aisbranded, such the article 19 shall, after entry of the decree, be destroyed at the 20 erpense of the claimant thereof, under the supervision of 21 such the agent, and all court costs and fees and storage and 22 23 other proper expenses shall be taxed against the claimant of such the article or his agent; provided, that when If the 24 adulteration or misbranding can be corrected by proper 25

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labeling or processing of the article, the court, after 1 2 entry of the decree and after such the costs, fees, and 3 expenses have been paid and a good and sufficient bond, 4 conditioned that such the article shall will be so labeled or processed, has been executed, may by order direct that 5 sech the article be delivered to the claimant thereof for 6 7 such the labeling or processing under the supervision of an agent of the department. The expense of such the supervision 8 9 shall be paid by claimant. Such The article shall be returned to the claimant of --- the -- article on the 10 11 representation to the court by the department that the 12 article is no longer in violation of this act, and that the expenses of such the supervision have been paid. 13

14 (4) Whenever the department or any of its 15 authorized agents shall find in any room, building, vehicle of transportation, or other structure, any meat, sea food, 16 poultry, vegetable, fruit, or other perishable articles 17 18 article which are is unsoundy or contains any 19 filthy, decomposed, or putrid substance, or that may be 20 poisonous or deleterious to health or otherwise unsafe, the 21 same article being hereby declared to be a suisance, the 22 department or its authorized agent- shall forthwith 23 innediately condemn or destroy the same article or in any 24 other manner render the same article unsalable as human food." 25

1 Section 2. Section 27-707, B.C.M. 1947, is amended to 2 read as follows:

3 "27-707. Proceedings to be instituted and prosecuted without delay --- defendant's right to be heard by 8 5 department. It-shall-bo-the-duty-of-each Each state attorney or county attorney, to whom the department reports any a 6 7 violation of this act, to shall cause appropriate proceedings to be instituted in the proper courts without 8 delay and to be prosecuted in the manner required by law. 9 Before any a violation of this act is reported to any such a 10 11 state or county attorney for the institution of a criminal proceeding, the person against whon such the proceeding is 12 contemplated shall be given appropriate notice and an 13 14 opportunity to present his views before the department or its designated agent, either orally or in writing, and 15 16 either in person or by attorney, with regard to such the 17 contemplated proceeding."

18 Section 3. Section 27-722, B.C.H. 1947, is amended to
19 read as follows:

20 \*27-722. Department's assess to buildings and
21 presises examination of samples Inspections and taking of
22 samples authorized. (1) The department or its authorized
23 agents shall have free access at all reasonable hours to any
24 factory, warehouse, or establishment in which foods, drugs,
25 devices, or cosmetics are manufactured, processed, packed,

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SENATE BILL NO. 29 INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 4 CLARIFY THE LARS RELATING TO HEALTH AND SAFETY: AMENDING 5 SECTIONS 27-706, 27-707, 27-722, 27-805, 50-480.7, 54-301, 6 54-319, 69-1401, 69-1504, 69-1508, 69-1509, 69-1802, 7 69-1808, 69-1923, 69-1925, 69-2111, 69-2701, 69-2702, 8 69-4428.1. 69-4504. 69-4508. 69-5201. 69-5207. 69-5502. 9 69-6701, 69-6704, 69-7102, 69-7103, 69-7105, 69-7107, 10 69-7108, 69-7110, 82-1201, 82-1202, 82-1215, 82-1226, 11 82-1229, AND 94-5-615, R.C.M. 1947; AND REPEALING SECTIONS 12 41-2101 THROUGH 41-2108, 69-1924, AND 82-1232, B.C.M. 1947." 13 14

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 27-706, B.C.H. 1947, is amended to
read as follows:

#27-706. Detention or embargo of adulterated or 18 misbranded articles -- condemnation proceedings -- immediate 19 abatement of nuisances. (a) (1) Whenever-a-duly-authorized If 20 an agent of the department finds or has probable cause to 21 believe that any food, drug, device, or cosmetic is 22 adulterated, or so misbranded as to be dangerous or 23 fraudulent within the meaning of this act, he shall affix to 24 such the article a tag or other appropriate marking, giving 25

notice that such the article is  $\tau$  or is suspected of being  $\tau$ 1 adulterated or misbranded and has been detained or embargoed 2 and warning all persons not to remove or dispose of such the 4 article by sale or otherwise until permission for removal or 11 disposal is given by such the agent or the court. It shall 5 be is unlawful for any a person to remove or dispose of such 6 7 a detained or embargoed article by sale or otherwise without such permission. 8

9 (2) Shen If an article detained or embargoed under 10 subsection (a) (1) has been is found by such the agent to be 11 adulterated or misbranded, he shall petition the justice of 12 peace, police city judge, or district court in whose 13 jurisdiction the article is detained or embargoed for a 14 libel an order for condemnation of such the article. When 15 such If the agent has found finds that an article so 16 detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking. 17

(c) [3] If the court finds that a detained or embargoed 18 19 article is adulterated or misbranded, such the article shall, after entry of the decree, be destroyed at the 20 21 expense of the claimant thereof, under the supervision of 22 such the agent, and all court costs and fees and storage and 23 other proper expenses shall be taxed against the claimant of 24 such the article or his agent, provided, that show If the adulteration or misbranding can be corrected by proper 25

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1 labeling or processing of the article, the court, after 2 entry of the decree and after such the costs, fees, and 3 expenses have been paid and a good and sufficient bond. 8 conditioned that such the article shall will be so labeled or processed, has been executed, may by order direct that 5 6 such the article be delivered to the claimant therecf for 7 . such the labeling or processing under the supervision of an 8 agent of the department. The expense of such the supervision 9 shall be paid by claisant. Such The article shall be 10 returned to the claimant <del>of the article</del> on the 11 representation to the court by the department that the 12 article is no longer in violation of this act, and that the 13 expenses of such the supervision have been paid.

14 (4) Whenever the department or any of its 15 authorized agents shall find in any roos, building, wehicle 16 of transportation, or other structure, any meat, sea food. 17 poultry, vegetable, fruit, or other perishable articles 18 article which are is unsound, or contains any 19 filthy, decomposed, or putrid substance, or that may be 20 poisonous or deleterious to health or otherwise unsafe, the 21 same article being hereby declared to be a nuisance, the 22 department or its authorized agenty shall forthwith 23 immediately condemn or destroy the same article or in any other manner render the same article unsalable as human 24 25 food."

Section 2. Section 27-707, R.C.H. 1947, is amended to
 read as follows:

#27-707. Proceedings to be instituted and prosecuted З ۵ without delay --- defendant's right to be heard by 5 department. It shall be the duty of each Each state attorney or county attorney, to whom the department reports any a 6 7 violation of this act, to shall cause appropriate proceedings to be instituted in the proper courts without 8 9 delay and to be prosecuted in the manner required by law. 10 Before any a violation of this act is reported to any such a state or county attorney for the institution of a criminal 11 12 proceeding, the person against whon such the proceeding is 13 contemplated shall be given appropriate notice and an 14 opportunity to present his views before the department or 15 its designated agent, either orally or in writingy and 16 either in person or by attorney, with regard to such the 17 contemplated proceeding."

18 Section 3. Section 27-722, R.C.M. 1947, is amended to
19 read as follows:

20 "27-722. Department's-accoss to buildings and 21 promises-oxamination of samples inspections and taking of 22 samples authorized. (1) The department or its authorized 23 agents shall have free access at all reasonable hours to any 24 factory, warehouse, or establishment in which foods, drugs, 25 devices, or cosmetics are manufactured, processed, packed,

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or held for introduction into commerce, or to enter any
 vehicle being used to transport or hold such the foods,
 drugs, devices, or cosmetics in commerce, for the purpose:
 (a) of inspecting such the factory, warehouse,
 establishment, or vehicle to determine if any of the
 provisions of this act are being wiolated; and

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7 (b) to construct of securing samples or speciments of any
8 food, drug, device, or cosmetic after paying or offering to
9 pay for each the sample.

10 (2) It--shall-be-the-duty-of-the The department to
 11 shall make or cause to be made examinations of samples
 12 secured under the provisions of this section to determine
 13 whether or not any provision of this act is being violated."
 14 Section 4. Section 27-805, R.C.M. 1947, is amended to
 15 read as follows:

#27-805. Penalties for violations. Any A person who 16 viclates any of the provisions of the this act or the 17 orders, or rules of regulations promulgated by the 18 department under authority thereofy of it shall, upon 19 conviction, thereof be subjected to fined for each and 20 21 every offense--in-a-sug-not-arcceding-one-hundred-dellars no more than {\$100} or to imprisonment be imprisoned for any 22 term not to exceed thirty-{30} days." 23

24 Section 5. Section 50-480.7, P.C.M. 1947, is amended 25 to read as follows:

"50-480.7. Order -- no violation -- abatement. An 1 operator notified of an order made under codtion 50 480.2 2 3 50-480.3 may apply to the division for a hearing or revision of the order. If the division finds that there was no а. 5 violation, it shall make an order rescinding the order under review. If the division finds that there was a violation, 6 7' but the violation has since been abated, it shall make an order rescinding the order under review. If the division 8 finds that the violation was not totally abated, it shall 9 10 make an order consistent with its findings."

Section 6. Section 54-301, R.C.M. 1947, is amended to
read as follows:

13 "54-301. Definitions. As used in this act <u>the</u>
 14 <u>following definitions apply</u>:
 15 (1) "Administer" means the direct application of a

16 dangerous drug, whether by injection, inhalation, ingestion,
17 or any other means, to the body of a patient or research
18 subject by:

19 (a) a practitioner (or by his authorized agent) 7: or

20 (b) the patient or research subject at the direction21 and in the presence of the practitioner.

(2) "Agent" means an authorized person who acts on
behalf of or at the direction of a manufacturer,
distributor, or dispenser. It does not include a common or
contract carrier, public warehouseman, or employee of the

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1 carrier or warehouseman.

2 (3) "Board" means the board of pharmacists, provided
3 for in section 82A-1602.21.

4 (4) "Bureau" means the bureau of narcotics and
5 dangerous drugs, United States department of justice, or its
6 successor agency.

7 (5) "Dangerous drug" means a drug, substance, or
8 immediate precursor in Schedules I through V hereinafter set
9 forth.

10 (6) "Counterfeit substance" means a dangerous drug
11 which, or the container or labeling of which, without
12 authorization, bears the trademark, trade name, or other
13 identifying mark, imprint, number, of or device, or any
14 likeness thereof, of a manufacturer, distributor, or
15 dispenser other than the person who in fact manufactured,
16 distributed, or dispensed the drug.

17 (7) "Deliver" or "delivery" means the actual,
18 constructive, or attempted transfer from one person to
19 another of a dangerous drug, whether or not there is an
20 agency relationship.

21 (8) "Department" means the department of professional
22 and occupational licensing, provided for in Title 82A,
23 chapter 16.

(9) "Dispense" means to deliver a dangerous drug to an
ultimate user or research subject by or pursuant to the

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lawful order of a practitioner, including the prescribing,
 administering, packaging, labeling, or compounding necessary
 to prepare the drug for that delivery.

4 (10) "Dispenser" means a practitioner who dispenses.

5 (11) "Distribute" means to deliver other than by
6 administering or dispensing a dangerous drug.

7 (12) "Distributor" means a person who distributes.

(13) "Drug" means:

8

9 (a) substances <u>a substance</u> recognized as <u>drugs a drugs</u>
10 in the official United States pharmacopoeia, official
11 homeopathic pharmacopoeia of the United States, or official
12 national formulary, or any supplement to any of them;

(b) substance <u>a substance</u> intended for use in the
diagnosis, cure, mitigation, treatment, or prevention of
disease in man or animals;

16 (c) cubstances <u>a substance</u> (other than food) intended
17 to affect the structure or any function of the body of man
18 or animals; and

19 (d) aubstances <u>a substance</u> intended for use as a
20 component of any article specified in alause (a), (b), or
21 (c) of this subsection. It does not include devices <u>a device</u>
22 or their its components, parts, or accessories.

23 (14) "Immediate precursor" means a substance which the
24 board of pharmacists <u>bas-found-to-be finds</u> and by rule
25 designates as being the principal compound commonly used or

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produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a dangerous drug, the control of which is necessary to prevent, curtail, or limit manufacture.

5 (15) "Manufacture" means the production. preparation. propagation, compounding, conversion, or processing of a 6 7 dangerous drug, either directly or indirectly by extraction from substances of natural origin, or independently by means 8 of chemical synthesis, or by a combination of extraction and 9 chemical synthesis, and includes any packaging or 10 repackaging of the drug or labeling or relabeling of its 11 container, orgopt .- that this The term does not include the 12 preparation or compounding of a dangerous drug by an 13 individual for his own use or the preparation, compounding, 14 packaging, or labeling of a dangerous drug: 15

16 (a) by a practiticner as an incident to his
17 administering or dispensing of a dangerous drug in the
18 course of his professional practice; cr

(b) by a practitionery or by his authorized agent
under his supervisiony for the purpose of or as an incident
toy research, teaching, or chemical analysis and not for
sale.

(16) "Marijuana (marihuana)" means all plant material
from the genus cannabis containing tetrahydrocannabinol
(THC) or seeds of the genus capable of germinaticn.

(17) "Narcotic drug" means any of the following,
 whether produced directly or indirectly by extraction from
 substances of vegetable origin, or independently by means of
 chemical synthesis, or by a combination of extraction and
 chemical synthesis:

6 (a) opium and opiate, and any salt, compound,
7 derivative, or preparation of opium or opiate;

8 (b) any salt, compound, isomer, derivative, or
9 preparation thereof which is chemically equivalent or
10 identical with any of the drugs referred to in <del>clause (a)</del>
11 <u>17(a) of this section</u>, but not including the isoquinoline
12 alkalcids, of opium;

13 (c) opium poppy and poppy straw; or

(d) coca leaves and any salt, compound, derivative, or
preparation of coca leaves, and any salt, compound, isomer,
derivative, or preparation thereof which is chemically
equivalent or identical with any of these drugs, but not
including decocainized coca leaves or extractions of coca
leaves which do not contain cocaine or ecgonine.

(18) "Opiate" 20 eans any drua baving аn 21 addiction-forming or addiction-sustaining liability similar 22 to morphine or being capable of conversion into a drug 23 having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as a 24 dangerous drug under section 54-302 of-this-age, the 25

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dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
 salts (dextromethorphan). It does include its racemic and
 levorotatory forms.

4 (19) "Opium poppy" means the plant of the species
5 papawer somniferum 1., except its seeds.

6 (20) "Person" means <u>an</u> individual, corporation,
7 government or governmental subdivision or agency, business
8 trust, estate, trust, partnership<u>e</u> association, or any
9 other legal entity.

10 (21) "Poppy straw" means all parts, except the seeds,
11 of the opium poppy, after mowing.

12 (22) "Practitioner" means:

(a) a physician, dentist, veterinarian, scientific
investigator, or other person licensed, registered, or
otherwise permitted to distribute, dispense, or conduct
research with respect to or to administer a dangerous drug
in the course of professional practice or research in this
state; and

(b) a pharmacy or other institution licensed,
registered, or otherwise permitted to distribute, dispense,
or conduct research with respect to or to administer a
dangerous drug in the course of professional practice or
research in this state.

24 (23) "Production" includes the manufacture, planting,
25 cultivation, growing, or harvesting of a substance or drug

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1 regulated under the provisions of this act.

2 (24) "State,", when applied to a part of the United
3 States, includes any state, district, commonwealth,
4 territory, insular possession thereof, and any area subject
5 to the legal authority of the United States of America.

6 (25) "Oltimate user" means a person who lawfully 7 possesses a dangerous drug for his own use or for the use of 8 a member of his household or for administering to an animal 9 owned by him or by a member of his household.

10 (26) The term "prescription" shall-be is given the
11 meaning it has in section 66-1502(13)-R.C.R. 1947."

Section 7. Section 54-319, R.C.N. 1947, is amended to
read as follows:

"54-319. Procedure for denial, suspension, revocation, 14 or refusal to renew registration. (1) Before denying, 15 suspending, or revoking a registration, or refusing a 16 17 renewal of registration, the board shall gauge-to-be--served serve upon the applicant or registrant an order to show 18 cause why registration should not be denied, revoked, or 19 suspended, or why the renewal should not be refused. The 20 21 order to show cause shall contain a statement of the basis therefor and shall require the applicant or registrant to 22 21 appear before the board at a time and place not less than thirty-(30) days after the date of service of the order, but 24 in the case of a denial or of renewal of registration, the 25

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show cause order shall be served not later than thirty--{30} days before the expiration of the registration. These proceedings shall be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall <u>do</u> not abate the existing registration, which shall remain remains in effect pending the outcome of the administrative hearing.

8 (2) The board may suspend, without an order to show 9 cause. any registration simultaneously with the institution 10 of proceedings under section-54-317 54-318 or where whenever reneval of registration is refused, if it finds that there 11 is an imminent danger to the public health or safety which 12 13 warrants such action. The suspension shall---continue 14 continues in effect until the conclusion of the proceedings, 15 including judicial review thereof, unless sooner withdrawn 16 by the bcard or dissolved by a court of competent 17 jurisdiction."

Section 8. Section 69-1401, R.C.B. 1947, is amended to
read as follows:

20 "69-1401. Construction of scaffolds. All scaffolds
21 erected in this state for use in the erection, repair,
22 alteration, or removal of buildings shall be well and safely
23 supported, and of sufficient width, and properly secured, so
24 as to ensure the safety of persons working thereas on them
25 or passing thereander, under them or by the same, them and

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to prevent <del>the them from</del> falling <del>thereof,</del> or <del>of <u>to</u> prevent</del> any material that may be used, placed, or deposited <del>thereon</del> <u>on them from falling."</u> Section 9. Section 69-1504, R.C.M. 1947, is amended to read as follows:

<sup>6</sup> "69-1504. Inspection of boilers — further
<sup>7</sup> requirements in making inspection. (1) The inspector must
<sup>8</sup> also satisfy himself that;

9 (a) the safety values are of suitable relieving 10 capacity ratings, sufficient in number and area, and 11 properly arranged, and that the safety-values are properly 12 adjusted so as not to allow to a greater pressure in the 13 beilers a boiler than the amount prescribed by the 14 inspection certificate;

15 (b) that there are a sufficient number of gauge cocks 16 properly inserted to indicate the aucunt of water, and 17 suitable gauges that will correctly record the pressure of 18 steam; and

19 <u>(c)</u> adequate and certain provisions for an ample 20 supply of water to feed the boilers boiler at all times, and 21 that suitable means for blowing out are provided, so as to 22 thoroughly remove mud and sediment from all parts of the 23 boilers boiler when they-are it is under pressure of steam, 24 <u>(2)</u> and any <u>h</u> renter, user, or owner of a boiler, or 25 any <u>a</u> person expersence who tamper tampers with the safety

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valve to allow the boiler to carry greater pressure than is
 allowed by the inspection certificate, shall be deemed is
 guilty of a misdemeanor.

4 (2) (3) Where If a boiler is constructed with lap 5 horizontal seams on the boiler, dome, or drum, a factor of 6 four-and-one-half 4\_1/2 shall be used in determining the 7 safe working pressure allowed on such the boiler. But-where 8 the beilers are If a boiler is constructed with butt strap 9 butt strap horizontal seams, a factor of four may be used in 10 determining such the safe working pressure. If a boiler 11 rests on a side wall on lugs, or is hung by I-beams, or is 12 in any way set up so that the weight of the boiler is 13 pulling against the horizontal seam of rivets, a factor of 14 five sust be used to-doterning in determining the safe 15 working pressure allowed on beiler. Where If the horizontal lap seams of a boiler are exposed to the fire, a factor of 16 17 five must be used to-determine in determining the safe 18 working pressure to-be-allowed-on-such-beiler. On new stay 19 bolts, if-new,-seven--thousand--five--hundred 7,500 pounds 20 pressure per square inch <del>shall-be</del> is allowed. If <del>such the</del> 21 stay bolts are corroded or defective, the inspector must 22 determine the pressure to be allowed on same them. On braces 23 made of solid material, oight thousand 8,000 pounds pressure 24 per square inch shall be is allowed. On welded braces or 25 braces with only one erow-foot crowfoot, cir thousand 6,000

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pounds pressure per square inch shall be is allowed. No cast
iron shall may be used in the construction or reinforcements
of any a boiler where if the pressure allowed on said the
boiler is more than one-hundred 100 pounds per square inch."
Section 10. Section 69-1508, R.C.B. 1947, is amended
to read as follows:

7 "69-1508. Licenses required --- penalty for operating R without license. No person shall may be granted a license to 9 operate steam or water boilers and steam machinery under the provisions of this article, who has not met the 10 11 qualifications for licensing, and been found to be competent by examination to perform the duties of an engineer, and 12 13 received a license so to act. Any A person who operates any a boiler or steam engine without first obtaining a license 14 is guilty of a misdemeanory and, upon conviction, shall be 15 puniched ... by ... a fine of not fined no less than fifty-dollars 16 17 \$50 more than one--hundred-dollars, \$100 cr by 18 imprisonment be imprisoned in the county fail for not-more than sixty any term not to exceed 60 days, or by both such 19 fine-and-imprisonment." 20

21 Section 11. Section 69-1509, R.C.H. 1947, is amended
22 to read as follows:

23 \*\*69-1509. Classification and licensing of engineers.
24 (1) Engineers entrusted with the operation, care, and
25 management of steam or water boilers and steam machinery, as

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specified in the preceding section, wust-be are divided into
 four classes, namely; first-class engineers, second-class
 engineers, third-class engineers, and low-pressure
 engineers.

5 (2) Licenses for the operation of steam or water 6 boilers and steam machinery shall be are divided into four 7 classifications in accordance with the following <u>schedule</u>: 8 (a) Pirst-class engineers shall be are licensed to 9 operate all classes, pressures, and temperatures of steam 10 and water boilers and <del>steam driven</del> <u>steam-driven</u> machinery 11 with the exception of traction and boisting engines.

(b) Second-class engineers shall-be are licensed to 12 operate steam boilers operating not in excess of two-hundred 13 fifty-{250} pounds per square inch gauge saturated steam 14 15 pressure. or water boilers operating not in excess of three hundred-ceventy-five-{375} pounds per square inch gauge 16 17 pressure and four-hundred-fifty-degrees-Fabresheit-(4500-F) \$50 degrees F temperature, and steam-driven steam-driven 18 machinery not to exceed one-hundred-(100) horsepower per 19 20 unit, with the exception of traction and hoisting engines. (c) Third-class engineers shall-be are licensed to

(c) Third-class engineers shall-be are licensed to
operate steam boilers operating not in encess of one-hundred
(100) pounds per square inch gauge saturated steam pressure
or and water boilers operating not in encess of one-hundred
simty-(160) pounds per square inch gauge pressure and three

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hundred\_fifty\_degrees\_Fabremheit--(350°F) 350\_degrees\_F
 température.

3 (d) Low-pressure engineers shall-be are licensed to
4 operate steam boilers operating not in excess of fifteen
5 (15) pounds per square inch gauge pressure or and water
6 boilers operating not in excess of fifty--(50) pounds per
7 square inch gauge pressure and two-hundred-fifty-degrees
8 Pabronbeit (250°F) 250 degrees F temperature.

9 (3) Each applicant for an engineer's license shall 10 must be physically and mentally capable of performing the 11 required duties and meet the following minimum requirements 12 for the class of engineer's license for which application is 13 being mader: Back-applicant-for-any-plassification-must-be 14 physically-and-sontally-capable-of-perforsing--the--required 15 dutiog--for--the---eless--of--eneinoer-e--liconce--for--which 16 application-is-being-made-

17 (a) Applicants An applicant for a low-pressure engineer's license shall must have <del>no less than three</del> at 18 least (3) months' full-time experience in the actual 19 operation of a boiler in this classification, and 20 successfully pass a written examination prescribed by the 21 division, and have passed his oightoonth--{18th} 22 birthday, and is be found to be competent to operate a 23 24 boiler or-boilers in this classification shall-be-granted-a 25 10\*-Presevre-engineer/s-lisense.

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1 (b) Applicants An applicant for a third-class 2 engineer's license chall must have no-less-than-sim at least 3 +6} scoths' full-time experience in the actual operation of 4 a boiler in this classification, under an engineer holding a 5 valid third-class or higher license, and successfully pass a 6 written examination prescribed by the division, and-has have 7 passed his eighteenth-{18th} birthday, and is be found to be 8 competent to operate a boiler or--beilers in this 9 classification shall-be-granted -- third-slass-engineer's 10 licease.

11 (c) Applicants An applicant for a second-class
12 engineer's license chall-have must:

13 (1) in the less that the have at least (2) years' 14 full-time experience in the actual operation of a boiler and 15 steam-driven steam-driven machinery in this classification, under an engineer holding a valid second-class or 16 17 first-class license, and successfully pass a written examination prescribed by the division, and has have passed 18 19 his oighteenth (18th) birthday, and is be found to be 20 competent to operate a boiler or-boilers and steas driven 21 steam-driven machinery in this classification shall--be 22 granted-a-second-class-engineer's-lisence; or

23 (2)(ii) Bold hold a valid third-class engineer's
 24 license and have no-less-than one at least (1) year's
 25 full-time experience in the actual operation of a boiler and

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steam---driven steam-driven machinery in this classification, 1 under an engineer holding a valid second-class cr 2 first-class license, and successfully pass a written 3 a examination prescribed by the division, and has have passed his eighteenth --- (18th) birthday, and is be found to be 5 6 competent to operate a boiler or-boilers and steas--drives steam-driven machinery in this classification chall-be 7 R granted-a-second-slass-engineer/s-lisense.

9 (d) Applicants An applicant for a first-class
 10 engineer's license shall-have aust:

11 (1) Bo-less than-three have at least (3) years' full-time experience in the actual operation of a boiler and 12 13 steam-driven steam-driven machinery in this classificationy under an engineer holding a valid first-class license, and 14 15 successfully pass a written examination prescribed by the division, and---- has have passed his cighteonth---{18th} 16 birthday, and is be found to be competent to operate a 17 boiler or-boilers and steam-driven steam-driven machinery in 18 19 engineerte-license; er 20

21 (2) (ii) Hold hold a valid second-class engineer's
22 license and have no-less-than-one at\_least (1) year's
23 full-time experience in the actual operation of a boiler and
24 steam-driven steam-driven machinery in this classification;
25 under an engineer holding a valid first-class license, and

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successfully pass a written examination prescribed by the division, and bare passed his eighteenth (18th) birthday, and is be found to be competent to operate a boiler or boilers and steas drives steap driven machinery in this classification shall be granted a first-slass engineer's lisense; or

(3) (iii) Rold hold a valid third-class engineer's 7 license and have no-less-then-two at least -{2} year's 8 full-time experience in the actual operation of a boiler and 9 10 stoam-driven steam-driven machinery in this classificationunder an engineer holding a valid first-class license. and 11 successfully passed a written examination prescribed by the 12 13 division, and have passed his eighteenth .- (18th) birthday, and is be found to be competent to operate a 14 boiler or-boilers and steam-driven steam-driven machinery in 15 this classification chall---be---granted--a--first-glass 16 17 engineerie-license.

18 (e)(4) Allowable exceptions or variances to the
 19 foregoing minimum requirements set out in subsection (3) of
 20 this section are as follows:

21 (1) (a) Applicants <u>An applicant</u> for <u>an</u> engineer's 22 license in any classification holding a valid license in 23 that classification from another state <u>with having</u> licensing 24 requirements equal to or exceeding the <u>foregoing</u> minimum 25 requirements <u>for the state of Montana and set out in</u>

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<u>subsection (3) of this section</u>, successfully pass passing a
 written examination prescribed by the division, and is found
 to be competent to operate a boiler or boilers and steam
 driven steam-driven machinery in that classification shall
 be granted a license in that classification.

6 (2)(b) Operating experience in a classification 7 accumulated in the United States military services or the 8 merchant marine service satisfactory to the division, 9 accumulated in United States military convises or the 10 merchant marine corvice may be accepted in lieu of the 11 operating experience required for licensing of engineers in 12 each of the foregoing licenge classifications.

13 (3) (c) Applicants with in applicant having training in 14 the astual operation of steam or water boilers and steam 15 machinery who have has been certified as having satisfactorily completed a prescribed training course from a 16 recognized vocational-technical training school or center or 17 other division approved <u>division-approved</u> institution or 18 19 training program in the classification for which he is 20 applying may, at the discretion of the division, be credited 21 with a maximum of  $\frac{6}{6}$  months' experience toward a first. 22 second, or third-class engineer's license.

23 (4) (5) None of the licenses <u>named</u> in <u>subsections (1)</u>
24 <u>and (2) of</u> this section <u>above-named-shall</u> entitle <u>the its</u>
25 holder <del>thereof</del> to operate a traction engine<sub>7</sub>. <u>bet-all</u>

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1 persons A person who are is entrusted with the care and 2 management of traction engines, or boilers on wheels, are is 3 required to pass an examination as-to-their testing his 4 competency to operate such that class of machinery and to 5 procure a traction license to--be--known--ag--a-traction license. Such A traction license shall does not entitle the 6 7 its holder thereof to operate any other class of steam 8 machinery specified-im-the-preseding-section. Applicants In 9 applicant for a traction engineer's license shall pust have 10 no loss than sig at least 464 months' full-time experience in the operation of steam traction engines, and successfully 11 12 pass a written examination prescribed by the division, and 13 has have passed his eighteenth (18th) birthday, and is he 14 found to be competent to operate a traction engine chall be 15 granted a-traction engineer's lisence. The division, at its 16 discretion, may waive the experience requirement for 17 operators of traction engines which are maintained and 18 operated as a hobby for the restoration and show purposes of 19 antique equipment.\*

Section 12. Section 69-1802, R.C.H. 1947, is amended
to read as follows:

22 \*\*69-1802. Application of act <u>-- definitions</u>. Sections
23 69-1801 through 69-1810y-P.C.S. 1947, apply to the following
24 occupancies <u>defined below</u>:

25 (1) "Assembly occupancy" means the occupancy or use of

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a building or structure or any portion thereof by a
 gathering of persons for civic, political, travel,
 religious, social, or recreational purposes, including
 among others;

- 5 (a) armories; 6 (b) assembly halls; 7 (c) auditoriums; 8 (d) bowling alleys: 9 (e) broadcasting studios; 10 (f) chapels; 11 (g) churches; 12 (h) club rooms: 13 (i) dance halls; 14 (j) exhibition rooms; 15 (k) gymnasiums; 16 (1) lecture halls; 17 (m) lodge rooms; 18 (n) motion picture theaters; 19 (o) nuseuns; 20 (p) night clubs; 21 (q) opera houses; 22 (r) passenger stations: 23 (s) pool rooms;
- 24 <u>(t)</u> recreation areas:
- 25 <u>(u)</u> restaurants;

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1	<u>(v)</u> skating rinks:	1 of a building or structure or any portion thereof for
2	<u>(v)</u> television studios <u>:</u>	2 assembling, fabricating, finishing, manufacturing,
3	<u>(x)</u> theaters <u>; and</u>	3 packaging, or processing operations+, including among
4	(y) taverns.	4 others <del>z</del> :
5	(2) "Business occupancy" means the cccupancy or use of	5 <u>(a)</u> assembly plants;
6	a building or structure or any portion thereof for the	6 <u>(b)</u> creameries <u>:</u>
7	transaction of business, or the rendering or receiving of	7' <u>[c]</u> electric substations:
8	professional services, including among others,	8 <u>(d)</u> factories:
9	<u>(a)</u> banks <u>:</u>	9 <u>(e)</u> ice plants <u>:</u>
10	<u>(b)</u> barber shops <u>;</u>	10 <u>(f)</u> laboratories <u>:</u>
11	<u>(c)</u> beauty parlors <u>:</u>	11 <u>(g)</u> laundries <u>:</u>
12	(d) office buildings:	12 <u>(b)</u> wanufacturing plants <u>;</u>
13	<u>(e)</u> radio stations <u>:</u>	13 <u>(i)</u> mills <u>:</u>
14	<u>(f)</u> telephone exchanges <u>; and</u>	14 <u>(j)</u> power plants <u>:</u>
15	<u>[g]</u> television stations <u>.</u>	15 <u>(k)</u> processing plants;
16	(3) "Educational occupancy" means the occupancy or use	16 <u>(1)</u> pumping stations:
17	of a building or structure or any portion thereof by persons	17 <u>(E)</u> repair garages <u>;</u>
18	assembled for the purpose of learning or <del>of</del> receiving	18 <u>(n)</u> smoke houses <u>; and</u>
19	educational instruction+, including among others+:	19 <u>(o)</u> vork-skops vorkshops.
20	<u>(a)</u> academies <u>:</u>	20 (5) "Institutional occupancy" means the occupancy or
21	<u>(b)</u> colleges <u>:</u>	21 use of a building or structure or any portion thereof by
22	<u>(c)</u> libraries <u>:</u>	22 persons harbored or detained to receive medical, charitable_
23	<u>(d)</u> schools <u>; and</u>	23 or other care or treatment, or by persons involuntarily
24	(e) universities,	24 detained $f_{i}$ including among others $f_{i}$
25	(4) <u>"</u> Industrial occupancy" means the occupancy or use	25 <u>(a)</u> asylums <u>:</u>
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- 1 <u>(b)</u> homes for the aged;
- 2 <u>(c)</u> hospitals;
- 3 (d) houses of correction;
- 4 <u>(e)</u> day care facilities;
- 5 (f) infirmaries;
- 6 (g) jails:
- 7 <u>(h)</u> nurseries:
- 8 <u>(i)</u> orphanages;
- 9 (j) nursing homes;
- 10 (k) penal institutions;
- 11 <u>(1)</u> reformatories;
- 12 <u>(#)</u> sanitariums:

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- 13 <u>(n)</u> long-term care facilities<u>; and</u>
  - (o) boarding homes,

- 22 (a) apartments;
- 23 (h) club-houses clubhouses;
- 24 (c) convents:
- 25 (d) dormitories;
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- 1 <u>(e)</u> dwellings;
- 2 (f) hotels;
- 3 <u>(g)</u> motels:
- 4 (h) sultifacily houses; and
- 5 (i) lodging houses.

#### 6 but-not-including-singlo-family-private-houses-

7 Section 13. Section 69-1808, R.C.H. 1947, is amended
8 to read as follows:

9 "69-1808. Inspection by fire chiefs, county <del>sheriff</del> 10 sheriffs, or deputy fire marshals -- review of plans by fire marshal --- permits -- notice of inadequate equipment ---11 compliance -- enforcement. (1) Within an incorporated 12 aunisipalities municipality, an educational or institutional 13 occupancy, whether public or private, may not be constructed 14 or <u>have</u> alterations made costing fifteen hundred-dellars 15 16 -{\$1,500} or more unless until sketches or architectural plans for the construction or alteration, whichever are 17 available, are submitted for-the construction-or-altoration 18 19 to the state fire marshal and approved by him.

20 (2) Cutside <u>an</u> incorporated <u>subicipalities</u>
21 <u>municipality</u>, an assembly, educational, or institutional
22 occupancy may not be constructed or <u>have</u> alterations made
23 costing <del>fifteen bundred dellars (\$1,500)</del> or more <del>unless</del>
24 <u>until</u> a permit has been issued for the construction or
25 alteration by the county commissioners. A fee of <del>ten-dellars</del>

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1 4\$10} shall be paid to the county treasurer for each permit. A copy of said the permit shall be furnished to the county 2 assessor. No permit shall may be issued until sketches or 3 £1 architectural plans for the construction or alteration, whichever are available, are submitted for the alteration or 5 construction-of-the-above-occupancies to the state fire 6 marshal and approved by him. The fire marshal and county 7 sheriffs are responsible for enforcing the provisions of 8 9 this subsection.

(3) A building designed for human occupancy owned or
controlled by the state may not be constructed walcoss until
plans for the construction have been submitted to the state
fire marshal and approved by him.

(4) It--shall-be-the-duty-of-the The chief of the fire 14 department of each municipality or district where a fire 15 department is established and the county sheriff or deputy 16 fire marshals where no fire department exists at-least-once 17 18 upon all premises within his their jurisdiction at least 19 once each 6 months for the purpose of the-emaination-of 20 such examining the premises for violations of this act. Such 21 The inspection shall include but shall is not be limited to 22 testing fire alaras, and fire extinguishers, examining fire 23 24 hose, and attachments, and other fire apparatus, and examining fire escapes provided for horeis. Copies of such 25

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<u>the</u> inspection shall be filed in the office of the state
 fire marshal on forms to be provided by him.

3 (5) When any a building shall- be is found which a required requires the erection of fire escapes, and upon 5 which fire escapes have not been erected according to the provisions of this act, or if fire hoses, fire 6 ertinguishers, fire alarms, or other fire apparatus is found 7. 8 to be lacking or defective or not in good working condition. 9 the person making <del>cush the</del> inspection or the state fire 10 marshal shall serve a written notice upon the party or 11 parties whose duty it is to erect such the fire escapes, or 12 maintain such fire apparatus. Said The notice shall specify 13 the time within which <del>said</del> the fire escapes shall be erected, or such the defective conditions be remedied, and 14 15 16 days, and said The notice shall be deemed to have been is served if delivered to the person to be notified, or if left 17 18 with any adult person at the usual residence or place of 19 business of the person to be notified, or if deposited in 20 the post office, directed to the last known address of the 21 person to be notified. In-case-of Whenever buildings within 22 23 board of trustees, board of commissioners, or other 24 governing body, the notice is served if delivered to the 25 president, secretary, or treasurer of the board of trustees,

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1 board of compissioners, or other governing body, to sauce the--erection--of--fire-escapes-on-said-buildings,-as-say-be 2 3 required;-provided,-that-the The occupant or lessee of any 4 building who is required to erect fire escapes under the 5 provisions of this act<del>y shall be</del> is entitled to reimburse 6 himself for the cost and expense of erecting said the fire 7 escapes out of the rent or lease money of said the premises, 8 and such the reimbursement chall-mot-be-construed-to--be is 9 not a breach of any existing lease, contract, cr any 10 covenant thereof new or grounds for any action or damage 11 ouster.

12 (6) The state fire marshal shall-have has general 13 charge and supervision of the enforcement of the enforcement 14 of this act, and such-officers-as-above-enuserated the 15 officers enumerated in subsection (4) of this section shall 16 act under the his general charge and supervision, of-the 17 state fire stalt cail officer shall assist the state fire 18 marshal him in giving effect to the terms and provisions -- of 19 this act, and shall-be are subject to his direction and to 20 the rules adopted for the enforcement of this act."

21 Section 14. Section 69-1923, R.C.E. 1947, is amended
22 to read as follows:

r69-1923. Storage of explosives in cities, etc. No
person, company, or corporation shall may store, deposit, or
keep within ene 1 mile of the limits of energy a city, town, or

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1 village any powder, gunpowder, giant or Hercules powder, or 2 other highly explosive substance, in greater-guantities-than one -hundred excess of 100 pounds, or sore-than-one-thousand Э 1.000 giant caps, at--any--one--time, nor shall--such may a 5 explosives be stored, deposited, or kept in any quantities quantity whatever within one 1 mile of such a city, town, or 6 7 village, except in a magazine constructed as bereibafter 8 described, provided for in 69-1907, provided, that this 9 section shall--not--be--construed-to does not prevent any a 10 person, company, or corporation, operating a sine within one 11 1 mile of the limits of such a city, town, or village, from 12 storing powder for use in such the mine in the manner 13 prescribed in sections 69-1922 and 69-1924; 69-1907, provided-also,-that-this This section shall does not prevent 14 15 the keeping of a reasonable amount of gunpowder, not 16 erceeding fifty 50 pounds, in a safe place for sale." 17 Section 15. Section 69-1925, R.C.H. 1947, is amended

17 Section 15. Section 69-1925, R.C.H. 1947, is amended
18 to read as follows:

19 "69-1925. Hagasines,--etc., <u>Transportation vehicle</u> to 20 bear warning signs. Every-storehouse-or-magasine-constructed 21 as provided-in-the-foregoing--section,--in--which--shall--be 22 stored,--deposited,--or-kept-ang-powdor,-gunpowdor,-giant-or 23 Heroules-powder,--giant--caps,--or--other--highly--emplosive 24 substance,-shall-at-all-times-have-posted-above-the-entranse 25 theroof-a-signboard-on-which-shall-be-painted-in-conspicuous

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1 letters - net - less - than - feur - inches - in - length - the - words 2 "explosives - dangerous, " - Every dray, wages, freight - car, - of 3 other Each vehicle in which shall - be explosives are 4 transported, transferred, or delivered any - of - the - said 5 explosives, shall bear on each side thereof a similar sign 6 with having the words "explosives - dangerous" in conspicuous 7 letters not less than two 2 inches in length."

8 Section 16. Section 69-2111, B.C.H. 1947, is amended
9 to read as follows:

"69-2111. Adoption of rules by department. (1) The 10 department shall adopt by reference nationally recognized 11 building codes in whole or in part, amend and or repeal 12 rnles relating to the construction of all buildings or 13 classes of buildings or the installation of equipment in 14 those buildings, and may by rule prescribe standards or 15 requirements for materials to be used in buildings, 16 including provisions dealing with safety, sanitation, and 17 conservation of energy. The rules, when adopted as provided 18 in this chapter, constitute the "state building code" and 19 shall-be are acceptable for the buildings to which it is 20 they are applicable. 21

(2) The department may hold hearings relating to the
administration of this act in accordance with the Montana
Administrative Procedure Act.

25 (3) Except as provided in subsection (4) of this

section, no rule, and no amendment, or repeal of the state
 building code chall may take effect until after a public
 hearing by the department.

(4) If a hearing has been held by the department-of h 5 instice state fire marshal with respect to its duties contained in Title 82, chapter 12, or by the board of б 7' plumbers, the department of health and environmental 8 sciences, the board of warm air heating, wentilation, and air conditioning, or the state electrical board, on a 9 10 proposed rule relating to building and equipment standards in their respective fields, a public hearing by the 11 department is not required. The proposed rule is effective 12 upon approval of the department and filing with the 13 secretary of state as a part of the state building code. 14

(5) If a rule relating to building or equipment 15 16 standards is proposed by the department of dustice state 17 fire marshall with respect to its his duties contained in 18 Title 82, chapter 12, or by the board of plumbers, the department of health and environmental sciences, the board 19 of warm air heating, ventilation, and air conditioning, or 20 the state electrical board which conflicts with the state 21 building code, the department after consultation with the 22 state agencies affected, shall modify the proposed rule or 23 the state building code to resolve the conflict after 24 consultation-with-the-state-agencies-affected." 25

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Section 17. Section 69-2701, R.C.M. 1947, is amended
 to read as follows:

3 \*69-2701. Pireworks prohibited and defined for the 4 purposes of this ast chapter. av(1) It shall be is unlawful 5 to possess, sell, transport, or use any fireworks within the 6 state of Bontana except as bereinafter provided in\_this 7 chapter.

8 by [2] The term "fireworks" shall-seam--and-include 9 means any combustible, or explosive composition, or any 10 substance, or combination of substances, or article prepared 11 for the purpose of producing a visible or audible effect by 12 combustion, explosion, deflagration, or detonation, and 13 shall-includes sky rockets, Recan ronan candles, 14 Daygo daygo bombs, blank cartridges, toy cannons, toy cames, 15 or toy guns in which explosives other than toy paper caps 16 are used, the type of balloons which require fire underneath 17 to propel the-same them, firecrackers, torpedoes, sparkler's 18 or other fireworks of like construction, and any fireworks 19 containing any explosive of or flammable compound, or any 20 tablets or other device containing any explosive substance. #othing--in-- this-- law-- shall--be-construct-as-applying This 21 22 chapter does not apply to toy paper caps containing not-more less than twenty five hundredths (+25) 1/4 of a grain of 23 24 explosive composition per cap, and to the manufacture, 25 storage, sale, or use of signals necessary for the safe

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operation of railroads or other classes of public or private transportation, nor-applying to the military or mary mayal forces of the United States or of this state, or to peace officers, nor-as-prohibiting or to the sale or use of blank cartridges for ceremonial, or theatrical, or athletic events.

rer(3) It shall-be is lawful for any an individual,
firm, partnership, corporation, or association to possess
for sale within the state of Nontanay the permissible
retail, or usey within the state of Nontanay the permissible
fireworks berewith enumerated in subsection (4) of this
section.

13 (4) Permissible fireworks, chell-include-dangerous articles and, more specifically, shall excluding sky rockets, roman candles, daygo bombs, firecrackers, and bottle rockets, include and be are limited to the following, but specifically excluding sky-rockets, --Roman-candles-and Daygo-bombs, firecrackers-and-bottle-reckets:

19 (1)(a) Belicopter helicopter type spinners, the total
20 pyrotechnic composition not to exceed twenty (20) grams each
21 in weight;

22 (2)(b) Cylindrical cylindrical fountains, the total 23 pyrotechnic composition not to exceed twenty-five (25) grams 24 each in weight. The and the inside tube diameter chall not 25 to exceed three-fourths (3/4) of an inch;

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(3) (c) Gone cone fountains, the total pyrotechnic 1 composition not to exceed fifty (50) grams each in weight; 2 (4) [d] Sheels total pyrctechnic wheels, the 3 composition not to exceed simty-(60) grams in weight, for 4 each driver unity (but there may be any number of drivers on 5 any one wheel, The and the inside bore of driver tubes 6 7 shall not to be over one-balf (1/2) of an inch;

8 (5) (e) <u>Filterinating illuminating</u> torches and colored
 9 fire in any form, <u>the</u> total pyrotechnic composition not to
 10 exceed one-hundred (100) grams each in weight;

11 (6) (f) Sparklers sparklers and dipped sticks, the
12 total pyrotechnic composition not to exceed ene-hundred
13 (100) grams each in weighter---Pyrotechnic (pyrotechnic)
14 composition containing any chlorate shall not to exceed five
15 (5) grams); and

16 (7)(g) Whistles whistles without report, the total
17 pyrotechnic composition not to exceed forty-(40) grams each
18 in weightte.

19 <u>(5)</u> It shall--be is unlawful for any an individual
20 under the age of eighteen-(18) to possess for sale, sell, or
21 offer for sale, within the state of Montana, permissive
22 fireworks herein enumerated in subsection (4) of this
23 section.

24 <u>(6)</u> It shall be <u>is</u> unlawful for any <u>a</u> wholesaler to 25 sell or offer for sale, within the state of Montana,

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fireworks except as herein-defined enumerated in subsection 1 2 [4] of this section. It shall-be is lawful for said a wholesaler, however, to transport said fireworks within the 3 ík. state of Montana for sale outside of the state of -Hontana. 5 4-(7) No person, firm, or corporation shall may effer 6 fireworks of any kind as-defined-herein for sale at retail 7' before the-24th-day-of June 24 and after the-Sth-day-of July B 5. 9 er (8) It shall be is unlawful for any an individual, 10 firm, partnership, or corporation to discharge or cause to 11 be discharged any pyrotechnics of-any-description whatever 12 within the exterior boundaries of any a state forest. or 13 state park, or state recreation area." 14 Section 18. Section 69-2702, R.C.H. 1947, is amended 15 to read as follows: 16 \*69-2702. Supervised public display of fireworks. 17 Breept-as-hereinafter-provided,-it-shall-be-uslawful-fer-any 18 persony-firmy--copartnershipy-assesiation-or-serperation-to 19 \$6689867-0ff0F-f0F-63le7-0#8080-f0F-63le7-69l17--0F--966--0F ozplode--any-firevorket--provided--that--the The state fire 20 21 marshal and the governing body of any a city, town, or 22 tewnship or county shall-have-power may, under reasonable rules and regulations adopted by it then, to grant permits 23

24 for supervised public displays of fireworks to be held

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25 therein by municipalities, fair associations, amusement

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1 parks, and other organizations or groups of individuals. 2 Bvery-such Each display shall be handled by a competent 3 operator, to who must be approved by the state fire marshal or by the governing body of the municipality in which the 4 5 display is to be held, and shall be of such a character, and 6 se located, discharged, or fired as, in the opinion of the 7 chief of the fire department or such other officer ap-may-be designated by the governing body of the municipality, after ß 9 proper inspection, shall not to be hazardous to persons or 10 property of-endanger-any-person-of-persons. Application for permits shall be made in writing at least fifteen-{15} days 11 12 in---advance---of prior to the date of the display. After such 13 the privilege chall-have has been granted, sales, 14 possession, use, and distribution of fireworks for such the 15 display shall-be are lawful for that purpose only. No permit 16 granted <del>herewader shall--be</del> under this section is transferable. The term "municipalities" shall--include 17 includes cities, and incorporated towns or townships." 18

19 Section 19. Section 69-4428.1, R.C.H. 1947, is amended20 to read as follows:

21 "69-4428.1. Disinterment —permit. (1) A body, after
22 burial, may be disinterred for reinterment or transporty
23 upon-obtaining after a permit therefor is obtained from the
24 local registrar of the jurisdiction where the body is
25 interred.

1 (2) Administration of the act shall be this section is 2 in the department of health and environmental sciences. which shall adopt rules accordingly. The rules shall provide 3 £1 that, as a sight precondition to the permit, the applicant 5 make a showing of reasonable cause for the disinterment. 6 (3) This ast section provides a supplementary procedure for disinterment of a dead body, and is not 7 ß amendatory to or repealing of any other act." 9 Section 20. Section 69-4504, R.C.H. 1947, is amended to read as follows: 10 "69-4504, County boards of health--sepposition. There 11 is a county board of health in each county consisting of: 12 13 (1) the county commissioners, and two (2) members who 14 are appointed by the county commissioners and serve at their 15 pleasure; cr 16 (2) five (5) persons who are appointed by the county counissioners and serve at their pleasure. Terms of 17 appointed members shall be staggered and shall be for three 18 19 -{3} years each. Gounty The compty commissioners shall establish the staggered order of terms and all regulations 20 rules necessary to establish and maintain the board." 21 Section 21. Section 69-4508, R.C.H. 1947, is amended 22 23 to read as follows:

24 #69-4508. Financing of local boards of health -25 appropriations -- tax levies. (1) Local boards are financed

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by general fund appropriations, special levy appropriations,
 state and federal funds available, and contributions from
 school boards and other official and nonofficial agencies.

(2) Appropriations are made as follows:

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5 (a) County boards are financed by an appropriation 6 from the general fund of the county after approval of a 7 budget in the way provided for other county offices and 8 departments under <u>Title 16</u>, chapter 19<del>, Title 16, 8. 6. 4</del>, 9 <del>1947</del>.

(b) City boards are financed by an appropriation from
the general fund of the city after approval of a budget in
the way provided for other city offices and departments
under <u>Title 11</u>, chapter 14<del>, Title 11, Rx-C, 3x-1947</del>.

14 (c) If a city-county board is created, it is financed
15 by one of the following methods:

16 (i) The county commissioners and governing body of the 17 each participating city,-or-sities, say sutually agree upon 18 the division of expenses. The county's part of the 19 total expenses is financed by an appropriation from the 20 general fund of the county after approval of a budget in the 21 way provided for other county offices and departments under Title 16, chapter 19- Title-16- R. C. - B. - 1947. The city-or 22 23 cities, Each participating city's part of the total sests 24 expenses is financed by an appropriation from the general fund of the city---of---dities---participating--in--the 25

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1 eity eventy board after approval of a budget in the way 2 provided for other city offices and departments under <u>Title</u> 3 <u>11</u>, chapter 14y-Title <u>11</u>, By-Gy-Hy-1947. All meneys shall be 4 deposited with the county treasurer who shall disburse them 5 as county funds<del>t</del>, or

б (ii) In first and second class counties, the county 7' commissioners and governing body of the each participating 8 city-or-siting, may sutually agree upon the division of the 9 expenses. The county's part of the total expenses is 10 financed by a special levy of not nore than five (5) mills 11 on the taxable valuation of all property outside the 12 incorporated limits of the each participating city-or 13 14 approval of a budget in the way provided for other county 15 offices and departments under Title 16, chapter 19-Title 16 46y-R.C.M. 1947. If the five-(5) sill 5-sill levy is not 17 sufficient to fund the sounty county's share, the county 18 commissioners may supplement it with an appropriation from 19 the county general fund. Bach sity, er sities, participating 20 city's part of the total costs expenses is financed by a 21 special levy of not more than five (5) wills on the taxable 22 valuation of all property within the incorporated limits of 23 the cityy-or-citles, participating-in-the-city-county-board 24 after approval of a budget in the way provided for other 25 city offices and departments under Title\_11, chapter  $14_7$ 

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Title-11-R.G.B. 1547. All moneys shall be deposited with
 the county treasurer who shall disburse them as county
 funds. The special lewies authorized by this subsection are
 in addition to all other lewies authorized by law.

5 (d) District boards are financed by appropriations 6 from the general funds of the sounties each county in the 7 district in proportion to the population in each county. 8 First and second class cities which elect to be included in the district contribute to the county in which they are 9 10 located in the way provided for city-county boards under subsection (2) (c) of this section. All funds shall be 11 deposited with the ccunty treasurer of one 443 of the 12 counties as agreed upon by the commissioners of the counties 13 in the district. The county treasurer shall disburse the 14 15 funds as county funds.

16 (3) School boards and other official and nonefficial
17 agencies may contribute funds to a local board.

18 (4) If the general fund of a city or county is not 19 sufficient to meet the approved budget, a levy of not more 20 than one (1) mill may be made on the taxable valuation of 21 all property in the city or county in addition to all other 22 levies authorized by law. This subsection does not apply 23 when the board has been financed under subsection (2)(c)(ii) 24 of this section."

25 Section 22. Section 69-5201, R.C.H. 1947, is amended

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1 to read as follows:

2 \*69-5201. Definitions. As used in this chapter, unless
3 the context clearly indicates otherwise<u>, the following</u>
4 <u>definitions apply</u>:

5 (1) "Hospital" means any a health care facility licensed by the department of-health-and-eavironmental 6 sciences to provide, by or under the supervision of licensed 7 B physicians, services for medical diagnosis, treatment, and care of injured, disabled, or sick persons. Services 9 provided may or may not include obstetrical care. A health 10 11 care facility, in order to be licensed as a hospital, most have an organized medical staff+, shall provide twenty-four 12 (24)-hour 24-hour nursing care by licensed professional 13 nurses, and shall be in compliance with the regulations 14 rules for licensed hospitals as-prosulgated-and adopted by 15 the state department of health and environmental sciences. 16

(2) "Hospital-related Hospital-related facility" means 17 a facility licensed by the department of-health-and 18 onvigonmontal--sciences to provide any-or-all-of--the 19 following+ diagnosis+, treatment+, medical or nursing care, 20 or medically related rehabilitation services. Such 21 facilities include, but are not limited to, outpatient 22 facilities. public health centers, rehabilitation 23 facilities, long-term care facilities, infirmaries, mental 24 health and mental retardation institutions, alsohol 25

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alcoholism and drug dependency centers, and half-way houses.
 A health care facility, in order to be licensed as a
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-fat(3) "Outpatient facility---A" means a physically 7 separate component of a licensed hospitaly or a medical 8 clinic or other establishment owned or operated by a 9 licensed physician or-physicians, which has an observation 10 bed or beds and which provides to patients, not requiring 11 hospitalization, the services of persons licensed to 12 practice medicine or dentistry in the state of Bontana. An 13 14 #ehecryation-bed#\_is-a-bed-used-by-a-patient-recovering-free surgery or other treatment. To patient shall may be allowed 15 to remain in an outpatient facility for more than sim---{6} 16 17 hours.

18 <u>14) An "observation bed" is a bed used by a patient</u>
 19 recovering from surgery or other treatment.

20 (b)(5) "Outpatient facility—B" means a facility
21 operated physically apart from a hospital, other than a
22 medical clinic or other establishment owned or operated by a
23 licensed physician or-physicians, which provides to
24 ambulatory patients, not requiring hospitalization, the
25 services of persons licensed to practice medicine or

dentistry in the state of Bontana, but which does not have
 an observation bed or beds as defined in subsection -{2}---{a}
 (4).

4 (0) (6) "Public health conters center" means a publicly
5 owned facility utilized by a local health unit for the
6 provision of public health services, including related
7 public facilities such as laboratories, clinics, and
8 administrative offices operated in connection with a public
9 health conters center.

10 <u>(4)(7)</u> "Rehabilitation facility" means a facility 11 providing community service which is operated for the 12 primary purpose of assisting in the rehabilitation of 13 disabled persons through an integrated program under 14 competent professional supervision, including+ medical 15 services and evaluation+ and psychological, social, and 16 vocational services and evaluation.

17 (e) (8) (a) "Long-term care facility" means a place 18 which provides skilled nursing care to a total of two (2) or 19 more persons or personal care to more than three (3) 20 persons, who, by reason of illness or disability, are unable 21 to properly care for themselves and are not related to the 22 owner or administrator by blocd or marriage, and may be 23 includes the facilities defined as follows:

24 (i) "Skilled nursing facilities" are establishments
25 furnishing continuous skilled nursing care and related

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services twenty-four-{24} hours a day.

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2 (ii) "Intermediate care facilities--A" are
3 establishments furnishing limited skilled nursing care and
4 personal care.

5 (iii) "Intermediate care facilities---B" are 6 establishments providing only personal care and services to 7 residents.

8 (iv) "Combination facilities" are establishments
9 providing two (2) or more of the following services: skilled
10 nursing care and intermediate care—A and/or B.

11 (+)(b) Hotels, motels, boarding houses, rooming
12 houses, or similar accommodations providing for transients,
13 students, or persons not requiring institutional health care
14 are not considered to be long-term care facilities.

15 (f) (2) "Infirmary" means a facility located in a
16 university, college, government institution, or industry,
17 for the treatment of the sick or injured.

18 (i) (10) "Infirmary--A" provides outpatient and 19 inpatient care.

20 (11) "Infirmary-B" provides outpatient care only.
 21 (3)(12) "Person" means any an individual, firm,
 22 partnership, association, er corporation, or governmental
 23 unit.

24 (4)(13) "Governmental unit" means the state, a state
 25 agency, any a county, municipality, or political subdivision

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1 of the state, or an agency of any a political subdivision.

2 (5)(14) "Resident" means a person who is in a long-term
3 care facility as a patient or for personal care.

4 (6) (15) "Health care facility" means a bospital,
5 bospital-related hospital-related facility, or long-term
6 care facility.

7 (7)(16) "Department" means state the department of
8 health and environmental sciences provided for in Title 82%.
9 chapter 6.

10 (17) "Construction" means the erection, expansion, remodeling, or alteration of any a new or existing facility, 11 12 the capital expenditure for which amounts to fifty-thousand dellars-(\$50,000) or more in any twelve-menth 12-month 13 14 period+ or any substantial change in services, <del>or</del> any 15 increase or decrease in the number of beds in excess of tea percent (10%) of the licensed capacity of the facility, or 16 17 in excess of ten-{10} beds, whichever is the lesser, or any purchase of therapeutic or diagnostic equipment (excluding 18 19 replacement of existing equipment) in any twolve-month 12-month period, at a cost exceeding two-persent (2%) of the 20 facility's total operating costs for the most recently 21 completed fiscal year up to a maximum of ene-hundred 22 23 theusand--dollars---(\$100,000}, or exceeding ten--thousand dellars-{\$10,000}, whichever is larger. All exemptions from 24 this definition must nevertheless be consistent with the 25

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1 state medical facilities plan of the department." 2 Section 23. Section 69-5207, R.C.M. 1947, is amended 3 to read as follows: Ĺ #69-5207. Denial of application for long-term care 5 facility. The department may deny an application for a Б long-term care facility license if: 7 (1) it fails to meet minimum standards prescribed 8 under section 69-5213: (2) the staff is insufficient in number or unqualified 9 10 by lack of training or experience: (3) the applicant or any person managing it has been 11 12 convicted of a felony and denial of a license on that basis is gualified by 66-4003 or the applicant otherwise shows 13 evidence of character traits inimical to the health and 14 15 safety of residents: or (4) is the applicant does not have the financial 16 17 ability to operate the facility in accordance with law, or 18 rules, or standards adopted by the department." Section 24. Section 69-5502, B.C.H. 1947, is amended 19 20 to read as follows: 21 "69-5502. Definitions. As used in this chapter, unless 22 the context clearly indicates otherwise, the fcllcwing 23 definitions apply:

(1) "Public swimming pocl" means any an artificial
 pool and bathbouses and related appurtenances for swimming,

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1 bathing, or wading, including natural bot water pools. The 2 term does not include: 3 (a) swimming pools located on private property used ы for swimming or bathing only by the owner, members of his 5 family, or their invited quests: cr 6 (b) medicinal hot water baths for individual use. 7' (2) "Public bathing place" means a body of water and 8 with bathhouses and related appurtenances operated for the 9 public. 10 (3) "Person" means a person, firm, partmership, corporation, organization, the state, or any political 11 12 subdivision of the state." 13 Section 25. Section 69-6701. R.C.H. 1947. is amended 14 to read as follows: 15 #69-6701. Definitions. (1) "Department" means the 16 department of health and environmental sciences provided for 17 in Title 821, chapter 6. 18 (2) "Standard serological test" means a test for 19 syphilis, rubella immunity, and blood group, including ABO

20 (Landsteiner blood type designation-0, A, B, AB) and RH

21 (Dd) type, approved by the department."

Section 26. Section 69-6704, B.C.H. 1947, is amended
to read as follows:

24 "69-6704. Certificate form. The #certificate form# to
25 be provided the physician recording the results of the test

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made by the laboratory shall be the same form as that
 provided with respect to <u>the</u> premarital standard serological
 test in section 48-135."

Section 27. Section 69-7102, R.C.M. 1947, is amended
to read as follows:

6 #69-7102. Definitions. In this act <u>the following</u>
7 <u>definitions apply</u>:

8 (1) "Department" means the department of health and
9 environmental sciences provided for in Title 824, chapter 6.
10 (2) "Person" includes an individual, partnership,
11 corporation, or association, or his legal representative or
12 agent.

13 (3) "Commerce" means all commerce within this state
14 and subject to the jurisdiction thereof+ and includes the
15 operation of any business or service establishment.

16 (4) (a) "Hazardous substance" means:

17 (a) (i) hay a substance or mixture of substances which:

18 (λ) is toxic<sub>71</sub>

19 (B) is corrosiver;

20 (C) is an irritant;

21 (D) is a strong sensitizer;

22 (E) is flammable or combustible; or

23 (F) generates pressure through decomposition, heat, or
24 other means, if such the substance or mixture of substances
25 may cause substantial personal injury or substantial illness

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during or as a proximate result of any customary or
reasonably foreseeable bandling or use, including reasonably
forseeable ingestion by children;

4 (ii) Any substances which the department by rule finds<sub>7</sub>
5 under section 69-7103(1)<sub>7</sub> meet the requirements of
6 cubparagraph-(a)(i) of this paragraph subsection (4)(a)(i)
7 of this section :

8 (iii) Any <u>a</u> radioactive substance, if, with respect to 9 such the substance as used in a particular class of article 10 or as packaged, the department determines by rule that the 11 substance is sufficiently hazardous to require labeling in 12 accordance with this act in order to protect the public 13 health.<u>ior</u>

(iv) hey a toy or other article intended for use by
children which presents an electrical, mechanical, or
thermal hazard, as determined by the department by rule
determines in accordance with section 69-7103(5) of this ast

18 procente-an-electricaly-sechapicaly-or-thersal-hasard.

19 (b) The term "hazardous substance" does not apply to 20 pesticides subject to the <u>Federal federal</u> Pesticide 21 Environmental Control Act or the Bontana <del>Festicide</del> 22 <u>Pesticides</u> Act, <del>nor</del> tc foods, drugs, and cosmetics subject 23 to the Hontana Food, Drug, and Cosmetic Act, <del>nor</del> or to 24 substances intended for use as fuels when stored in 25 containers and used in the heating, cooking, or

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refrigeration system of a house, but the The term applies, 1 however, to any an article which is not itself a pesticide 2 within the meaning of the Federal federal Pesticide 3 Environmental Control Act or the Montana Pesticide Act, but 8 which is a hazardous substance within the meaning of 5 subparagraph-(a) subsection (4) (a) of this paragraph section 6 by reason of bearing or containing such a pesticides, the 7 The term also applies to pesticides where whenever huwan 8 health is directly affected from the use or misuse of 9 pesticides requiring an accident investigation for the 10 purpose of preparing recommendations to federal or state 11 pesticide control agencies. 12

(c) The term "hazardous substance" does not include
any source material, special nuclear material, or by-product
material as defined in the Atomic Energy Act of 1954, as
amended, and rules issued pursuant thereto by the atomic
energy commission.

18 (5) "Toxic" means any a substance (other than a
19 radioactive substance) which has the capacity to produce
20 personal injury or illness to man through ingestion,
21 inhalation, or absorption through any body surface.

22 (6) (a) "Highly toxic" means any <u>a</u> substance which
23 falls within any of the following categories:

24 (i) produces death within fourteen--(14) days in 25 one-half (1/2) or more of a group of ten--(10) or more

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1 laboratory white rats each weighing between two-hundred 2 +(200) and three-hundred +(300) grams, at a single dose of 3  $\frac{fifty-(50)}{100}$  milligrams or less per kilogram of body weight, 4 when orally administered; or

5 (ii) produces death within <del>fourteen-4</del>14+ days in one-half (1/2) or more of a group of ten-(10) or more 6 7 . laboratory white rats each weighing between two--hundred +200} and three---hundred---+300} grams, when inhaled 8 9 continuously for a period of one-{1} hour or less at an 10 atmosphere concentration of two--hundred---(200) parts per 11 million or less by volume or less of gas or vapor or two-{2} 12 milligrams per liter or less by volume or less of mist or 13 dusty if such that concentration is likely to be encountered 14 by man when the substance is used in ees a reasonably 15 foreseeable manner; or

(iii) produces death within fourtoen-(14) days in
one-half (1/2) or more of a group of ten-(10) or more
rabbits tested in a dosage of two-hendred--(200) milligrams
or less per kilogram of body weight, when administered by
continuous contact with the bare skin for twenty-four-(24)
hours or less.

(b) If the department finds that available data on
human experience with any a substance indicate results
different from those obtained on animals in the above-named
dosages or concentrations, the human data shall take

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1 precedence.

2 (7) "Corrosive" means any a substance which in contact
3 with living tissue will cause destruction of tissue by
4 chemical action, but does not refer to action on inanimate
5 surfaces.

6 (8) "Irritant" means any a substance not corresive
7 within the meaning of subsection (7) of this section which
8 on immediate, prolonged, or repeated contact with normal
9 living tissue will induce a local inflammatory reaction.

10 (9) "Strong sensitizer" means a substance which will
11 cause on normal living tissue, through an allergic or
12 photodynamic process, a hypersensitivity.

13 (10) (a) "Extremely flammable" applies to any a
14 substance which has a flash point at or below twenty-degrees
15 (20)-fahronhoit 20 degrees P, as determined by the tagliabue
16 open cup tester.

17 (a) (b) "Planable" applies to any a substance which
18 has a flash point of above twenty-degrees (20) 20 degrees to
19 and including eighty-degrees (80) fabreabeit 80 degrees P,
20 as determined by the tagliabue open cup tester.

(b) (c) "Combustible" applies to any a substance which
 has a flash point above eighty degrees - (80] - fabrement 80
 degrees to and including one-hundred-fifty-degrees - (150] 150
 degrees F, as determined by the tagliabue open oup testers.
 except-that-the

1 (d) The flasmability or combustibility of solids and of the contents of self-pressurized containers shall be 2 3 determined by methods found by the department to be generally applicable to such the materials or containers, 4 5 respectively, and established by rules issued by the department, which rules shall also define the terms 6 "flanmable", "combustible", and "extremely flanmable" in 7 8 accord with such the methods used.

9 (11) "Radioactive substance" means a substance which
10 emits ionizing radiation.

(12) "Label" means a display of written, printed, or 11 graphic matter upon the immediate container ("immediate 12 container" does not include package liners) of any a 13 substance, or, in the case of an article which is unpackaged 14 cr is not packaged in an immediate container intended or 15 suitable for delivery to the ultimate consumer, a display of 16 such matter directly upon the article involved or upon a tag 17 or other suitable material affired thereto, and a 18 requirement made by or under authority of this act that any 19 20 a word, statement, or other information appear on the label 21 shall not be considered to be complied with unless such the 22 word, statement, or other informatics also appears:

(a) on the outside container or wrapper, if any,
unless it is easily legible through the outside container or
wrapper; and

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(b) on all accompanying literature where there are 1 2 directions for use, written or otherwise. 3

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(14) (13) "Hisbranded hazardous substance" means a 5 hazardous substance (including a toy, or other article 6 intended for use by children, which is a hazardous 7 substance, or which bears or contains a hazardous substance 8 in such a manner as to be susceptible of access by a child 9 to whom such the toy or other article is entrusted) 10 intended, or packaged in a form suitable for use by the 11 public or by children, which substance, except as otherwise 12 13 (3), fails to bear a label: 14

(a) which states conspicuously; 15

(i) the name and place of business of the 16 manufacturer, packer, distributor, or seller; 17

(ii) the common or usual name or the chemical name (if 18 there be-no is not a common or usual name) of the harardous 19 substance or of each component which contributes 20 substantially to its hazardy unless the department by rule 21 permits or requires the use of a recognized generic name; 22

(iii) the signal word "danger" on substances which are 23 extremely flammable, corrosive, or highly toxic; 24

(iv) the signal word on all other hazardous substances; 25

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1 (v) an affirmative statement of the principal hazard

2 or hazards, such as:

9

(A) "flammable"-: 3

"combustible"; n (B)

5 (C) "wapor harsful";

"causes burns"; 6 (D)

7 (E) "absorbed through skin"; or

(F) similar wording descriptive of the hazard; 8

(vi) precautionary measures describing the action to be

10 followed or avoided, except when modified by a rule of the

11 department under coction 69-7103(2) or (3);

12 (vii) instruction, when necessary or appropriate, for

13 first aid treatment;

14 (viii) "poison" for any hazardous substance which is defined as "highly toxic" by subsection (6) of this section: 15 16 and

(ix) instructions for handling and storage or of 17 18 packages which require special care in handling or storage 19 such as:

(A) "keep out of the reach of children" or its 20 21 practical equivalent; or

22 (B) if the article is intended for use by children and

is not a banned hazardous substance, adequate directions for 23

24 the protection of children from the hazardy; and

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(b) on which any a statement required under

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subparagraph (a) of this paragraph are subsection (13) (a) of this section is located prominently and are is in the Reglish language in conspicuous and legible type in contrast by typegraphy, layout, or color with other printed matter on the label.

(15) (14) (a) "Banned hazardous substance" means:

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7 (i) any a toy, or other article intended for use by 8 children, which is a hazardous substance, or which lears or 9 contains a hazardous substance in such a manner as to be 10 susceptible of access by a child to whom the toy or other 11 article is entrusted; or

12 (ii) any a hazardous substance intended, or packaged in 13 a form suitable for use by the general public which the 14 department by rule classifies as a "banned bazardous 15 substance" on the basis of a finding that, notwithstanding such cautionary labeling as is cr may be required under this 16 17 act for that substance, the degree or nature of the bazard 18 involved in the presence or use of such the substance by 19 the general public is such that the objective cf the 20 protection of the public health and safety can be adequately 21 served only by keeping the substance, when so intended or 22 packaged, out of the channels of commerce. Hewever,-the 23 (b) The department by rules shall exempt from clause

24 (i) - of - this - paragraph subsection (14) (a) (i) of this section25 articles, such as chemical sets, which, by reason of their

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1 functional purpose, require the inclusion of the hazardcus 2 substance involved or necessarily present an electrical, 3 mechanical, or thermal hazard, and which hear labeling 4 giving adequate directions and warnings for safe use and are 5 intended for use by children who have attained sufficient 6 maturity, and may reasonably be expected, to read and heed 7 the directions and warnings.

8 (b) (c) Proceedings for the issuance, amendment, or
9 repeal of rules under clause (ii) -- of subparagraph -- (a) of
10 this -paragraph subsections (14) (a) (ii) and (14) (b) of this
11 section shall be governed by the provisions of section
12 69-7103-of the act subsections (4) and (5) of 69-71(3).

13 (16)(15) An article may be determined to present an electrical bazard if, in normal use or when subjected to 15 reasonably foreseeable damage or abuse, its design or 16 manufacture may cause personal injury or illness by electric 17 shock.

18 (17)(16) An article may be determined to present a 19 mechanical hazard if, in normal use or when subjected to 20 reasonably foreseeable damage or abuse, its design or 21 manufacture presents an unreasonable risk of personal injury 22 or illness:

23 (a) from fracture, fragmentation, or disassembly of
24 the article<u>r:</u>

25 (b) from propulsion of the article (or any a part or

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accessory thereof) -: 1 (c) from points or other protrusions, surfaces, edges, 2 3 openings, or closures; (d) from moving parts-: 4 (e) from lack or insufficiency of controls to reduce 5 6 or stop motiony: (f) as a result of self-adhering characteristics of 7 8 the articler: (g) because the article (or any a part or accessory 9 thereof) may be aspirated or ingestedy: 10 (h) because of instability; or 11 (i) because of any other aspect of the article's 12 design or manufacture. 13 (18) (17) An article may be determined to present a 14 thermal hazard if, in normal use or when subjected to 15 reasonably foreseeable damage or abuse, its design or 16 manufacture presents an unreasonable risk of personal injury 17 18 or illness because of heat as from heated parts, substances, 19 or surfaces. (18) "Court" means, in section-69-7403 69-7103(5), 20 21 the district court for the first judicial district, and, in sestions 69-7106 and 69-7107, the district court is in the 22

district in which where the violation occurs." 23

Section 28. Section 69-7103, B.C.B. 1947, is amended 24 25 to read as follows:

1 2 labeling requirements -- court proceedings. (1) When in the 3 judgment of the department such action will promote the objectives of this act by avoiding or resolving uncertainty 4 5 as to its application, the department may by rule declare to 6 be a hazardous substance, for the purposes of this act, - tar 7. a substance or mixture of substances which the department 8 finds meets the requirements of cubparagraph---- (a) (i) 9 subsection (4) (a) (1) of section 69-7402(4) 69-7102.

10 (2) If the department finds that the requirements of 11 section-69-7102(14) (a) 69-7102(13) (a) are not adequate for the protection of the public health and safety in view of 12 13 the special hazard presented by <del>any particular</del> <u>a</u> hazardous 14 substance, the department may by rule establish such 15 reasonable variations or additional label labeling 16 requirements as are necessary for the protection of the 17 public health and safety, and any such a hazardous substance 18 intended, or packaged in a form suitable, for use by the 19 general public or by children, which fails to bear a label 20 in accordance with the rules shall be is a misbranded 21 hazardous substance.

22 (3) If the department finds that, because of the size 23 of the package involved or because of the minor bazard 24 presented by the substance contained therein, or for other 25 good and sufficient reasons, full coupliance with the

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labeling requirements otherwise applicable under this act is
 impracticable or is not necessary for the adequate
 protection of the public health and safety, the department
 shall adopt rules exempting such the substance from these
 requirements to the extent of being consistent with adequate
 protection of the public health and safety.

7 (9) If the department finds that the hazard of an 8 article subject to this act is such that labeling adequate 9 to protect the public health and safety cannot be devisedy 10 or the article presents an imminent danger to the public 11 health and safety, the department may declare the article a 12 banned hazardous substance and require its removal from 13 commerce.

(5) (a) A determination by the department that a toy
or other article intended for use by children presents an
electrical, mechanical, or thermal hazard shall be made by
rule in accordance with this act.

18 (b) If, before or during a proceeding under sameraph 19 (a) of this subsection subsection (5) (a) of this section, 20 the department finds that, because of an electrical, mechanical, or thermal hazard, distribution of the a toy or 21 22 other article involved presents an imminent hazard to the public health and the department gives actice of such the 23 finding, the toy or other article shall-be is a banned 24 hazardous substance for purposes of this act until the 25

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proceeding has been completed. If not yet initiated when
 the notice is given, the proceeding shall be initiated as
 promptly as possible.

(c) (i) In the case of any a toy or other article 4 intended for use by children which is determined by the 5 department to present an electrical, mechanical, or thermal 6 hazard, any a person who will be adversely affected by such 7 the a determination may, at any time before the similar 8 60th day after the rule making the determination is issued 9 10 by the department, file a petition with the court for a judicial review of such the determination. A copy of the 11 petition shall be immediately transmitted by the clerk of 12 13 the court to the department. The department shall file in the court the record of the proceedings on which the 14 15 department based its determination.

(ii) If the petitioner applies to the court for leave 16 to adduce additional evidence, and shows to the satisfaction 17 of the court that such the additional evidence is material 18 and that there was no opportunity to adduce such the 19 evidence in the proceeding before the department, the court 20 may order <del>such the</del> additional evidence (and evidence in 21 rebuttal thereof) to be taken before the department in a 22 hearing or in such other another mannery and upon such other 23 terms and conditions, as the court may-consider considers 24 proper. The department may modify their its findings as to 25

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the facts, or make new findings, by reason of the additional evidence so taken, and they it shall file such the modified or new findings, and their its recommendation, if any, for the modification or setting aside of their its original determination, with the return of such the additional evidence.

7 (iii) Upon the filing of the petition under this 8 paragraph subsection (5) (c) of this section, the court has jurisdiction to review the determination of the department. 9 If the court ordered additional evidence to be taken under 10 11 subparagraph (11) of this paragraph subsection (5) (c) (11) of this section, the court shall also review the department's 12 determination to determine if, on the basis of the entire 13 record before the court under subparagraphs (i) -and (ii) -of 14 15 this paragraph subsections (5) (c) (i) and (5) (c) (ii) of this 16 section, it is supported by substantial evidence. If the court finds the determination is not so supported, the court 17 may set it aside. With respect to any a determination 18 reviewed under this paragraph subsection (5) (c) of this 19 section, the court may grant appropriate relief pending 20 conclusion of the review proceedings." 21

22 Section 29. Section 69-7105, B.C.M. 1947, is amended 23 to read as follows:

24 "69-7105. Penalty -- exceptions. (1)  $\frac{1}{100}$  person who 25 violates any of the provisions of section 69-7104 is guilty

of a misdemeanor and shall be fined not nore than five 1 hundred-dollars (\$500) or be imprisoned for not--more than 2 any term not to exceed minety--{90} days, or both. For 3 offenses committed with intent to defraud or misleady or for ш 5 second and subsequent offenses, the penalty shall be 6 imprisonment for act -- acre-than any term not to exceed one 7 -{1} year, or a fine of not no more than three--thousand я dellars-(\$3,000), or both imprisonment-and-fine.

9 (2) No person is subject to the penalties of10 subsection (1) of this section:

(a) for having violated section 69-7104(3), if the 11 12 receipt, delivery, or proffered delivery of the hazardous 13 substance was made in good faith unless he refuses to furnish on request of an officer or employee duly designated 14 15 by the department, the name and address of the person from whom he purchased or received such the hazardous substance, 16 17 and copies of all documents, if any there be, pertaining to the delivery of the hazardous substance to him; or 18

19 (b) for baving violated section  $69-7104(1)_T$  if he 20 establishes a guarantee or undertaking signed by<sub>T</sub> and 21 containing the name and address of<sub>T</sub> the person residing in 22 the United States from whom he received in good faith the 23 hazardous substance<sub>T</sub> to the effect that the hazardous 24 substance is not a misbranded hasardous or a fanned 25 hazardous substance within the meaning of those terms in the

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1 <u>this</u> act."

2 Section 30. Section 69-7107, R.C.H. 1947, is amended
3 to read as follows:

4 \*69-7107. Detainer of misbranded or banned hazardous 5 substance. (1) #henever If a duly authorized agent of the 6 department finds or has probable cause to believe that any a 7 hazardous substance is a misbranded, or is a banned hazardous substance, within the meaning of this act, he 8 9 shall affix to such the article a tag or other appropriate 10 marking, giving notice that such the article is, or is 11 suspected of being, misbranded or is a banned hazardous substance and has been detained or embargoed r and warning 12 13 all persons not to remove or dispose of such the article by 14 sale or otherwise until permission for removal or disposal 15 is given by such the agent or the court. It shall-be is 16 unlawful for any a person to remove or dispose of such a detained or embargoed article by sale or otherwise without 17 18 such permission.

19 (2) Then If an article detained or embargoed under 20 subsection (1) has been is found by such the agent to be 21 misbranded or a banned hazardous substance, he shall 22 petition the judge or of the police city, county justice's, 23 or circuit district court in whose jurisdiction the article 24 is detained or embargoed for a-libel an\_order of 25 condemnation of such the article. The agent

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has found finds that an article so detained or embargeed is
 not misbranded or a banned hazardous substance, he shall
 remove the tag or other marking.

(3) If the court finds that a detained or embargoed 4 article is misbranded or a banned bazardous substance, such 5 the article shall, after entry of the decree, be destroyed 6 at the expense of the claimant thereof, under supervision of 7 such the agent, and all court costs and fees and stcrage and 8 other proper expenses, shall are to be taxed against the 9 claimant of such the article or his agent, provided, that 10 when If the misbranding can be corrected by proper labeling 11 of the article, the court, after entry of the decree and 12 after such the costs, fees, and expenses have been paid and 13 a good and sufficient bond, conditioned that such the 14 article shall will be so labeled, has been executed, say by 15 16 order direct that such the article he delivered to the claimant thereof for such the labeling under the supervision 17 of an agent of the department. The expense of such the 18 19 supervision shall be paid by the claimant. The article shall be returned to the claimant on the representation to 20 the court by the department that the article is no longer in 21 violation of this act, and that the expenses of such the 22 23 supervision have been paid."

Section 31. Section 69-7108, R.C.M. 1947, is amended
to read as follows:

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#69-7108. Duties of department and county attorney. It 1 is the daty of the department or the county attorney to whom 2 the department reports any a violation of this act, to cause 3 appropriate proceedings to be instituted in the proper ti. courts without delay and to be prosecuted in the manner 5 required by law. Before any a viclation of this act is 6 7 reported to any-euch a county attorney for the institution of a criminal proceeding, the person against whom such the 8 proceeding is contemplated shall be given appropriate notice 9 and an opportunity to present his view views before the 10 department, either crally or in writing, and either in 11 person or by attorney, with regard to such the contemplated 12 proceeding." 13

14 Section 32. Section 69-7110, B.C.M. 1947, is amended
15 to read as follows:

16 "69-7110. Powers and duties of department's agents.
17 (1) For enforcement of this act, officers or employees duly
18 designated by the department, upon presenting appropriate
19 credentials to the owner, operator, or agent in charge, are
20 authorized to:

(a) to enter, at reasonable time, any times a factory,
warehouse, or establishment in which hazardous substances
are manufactured, processed, packed, or held for
introduction into commerce or are held after such
introduction; or

2 hold such hazardous substances in comerce; 3 (b) (c) to inspect, at reasonable times, and within 4 5 factory, warehouse, establishment, or wehicle, and all 6 pertinent equipment, finished and unfinished materials, and 7' labeling therein; and 8 (c) (d) to obtain samples of such materials or packages 9 or labeling thereof -- or -of-such-labeling. 10 (2) If the officer or employee obtains any a sample, 11 prior to leaving the premises, he shall pay or offer to pay the owner, operator, or agent in charge for such the sample 12 13 and give a receipt describing the samples obtained. 14 (3) The department will shall conduct investigations of reported accidental injuries, illnesses, and deaths 15 16 resulting from the use or misuse of all hazardous substances, as defined by 69-7102(4)(a)(i), intended or 17 18 suitable for use by the general public as-defined-under section ..... 69-7402(4)(a)(i). Investigations will shall 19 20 evaluate the causative hazardous substance and circumstances 21 of the accident for enforcement of this act. Where If the offending hazardous substance is a pesticide regulated by 22 23 another agency as under the Federal federal Environmental 24 Pesticide Control Act or the Montana Pesticide Pesticides 25 Act, the investigation will shall yield recommendations to

(b) to enter any a vehicle being used to transport or

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the appropriate regulating agency for appropriate action."
 Section 33. Section 82-1201, B.C.M. 1947, is amended
 to read as follows:

\*82-1201. Greation-of-office-of-state-fire Pire
marshal-fire-protoction-advisory-cossission bureau.
(1) There is an office-of-state a fire marshaly bureau in
the department of justice which is under the supervision and
control of the cossissioner-of-insurance attorney general.
(2) The state chief of the fire marshal bureau shall

10 be appointed by the commissioner of insurance attorney
11 <u>qeneral</u> and shall serve at his pleasure. <u>The chief of the</u>
12 <u>fire marshal bureau is the state fire marshal</u>,

13 (3) A person appointed state fire marshal shall:

14 (a) have at--least--ten--(10) years of progressively
15 responsible experience in fire protection; or

(b) <u>have</u> a degree in engineering from a recognized
institution of higher education and <del>two (2)</del> years'
experience in fire protection; or

19 (c) <u>have a degree from a recognized institution of</u>
20 higher education in fire protection engineering or fire
21 protection technology.

22 (4)--Not-later-than-thirty-(30)--days--after-this--ast 23 becomes---effective--the--cossissionor--of--incurance--shall 24 appoint-a-fire-prevention-advicory--semission--composed--of 25 the-following-members:

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2	industry-whose-initial-torn-shall-be-for-one-(1)-year;
3	<del>{b}Cae-personrepresentinginductrywhoseinitial</del>
4,	ters-chall-be-for-one-(1)-year;
5	<del>(c)Onepersoncopresontingfull-tinepaidfire</del>
6	departments-whose-initial-term-shall-be-for-two-{3}-years;
7	{d}One-person-representing-velunteer_fire-departments
8	<pre>whose_initial_ters-shall_be_fer-two-{2}-years;</pre>
9	<del>{c}Onc-porcon-representing-architestsofthestate</del>
0	whose-isitial-term-shall-be-fer-three-(3)-years;
11	<del>{\$}Onepersonrepresenting-the-public-vhose</del> -initial

- 12 torm-shall-be for-four-(4)-years; 13 (g)-The-commissioner-of-insurance, 14 After-tormination of the--initial-torm, all-members 15 shall-be-appointed-for-four--(4)-year-terms, Appointed 16 members-of-the commission-shall-be-reimbursed-for-sectings 17 at--the--rate--of--tweaty--dellars-(\$20)-per-day-plus-astual 18 expenses-including--mileage,---food,---and---ledging,---The
- 19 commissioner-of-insurance-shall-serve-as-shairmany-and-the

-{a}---One----percon----representing----the--fire---incurance

- 20 state-fire--statshal--shall--serve--as--secretary---ef---the
- 21 desmission."

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22 Section 34. Section 82-1202, R.C.H. 1947, is amended
23 to read as follows:

24 "82-1202. Powers of the state and duties of fire
25 marshal. (1) The state fire marshal shall:

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(1) (a) Hake make at least one inspection during-every 1 a year, of each state institution, and submit a copy of the 2 report to the state department of institutions with 3 recommendations in regard to fire prevention, fire 4 5 protection, and to-the public safety-;

(2) (b) Hake make at least one inspection during-every 6 a year, of each unit of the Montana university system, and 7 submit a copy of the report to the emesuative-measurements 8 the university orsten counissioner of higher education with q recommendations in reqard to fire prevention, fire 10 protection, and to the public safety; 11

12 (c) Inspect inspect public, business, or industrial buildings and require conformance to law or and rules 13 14 promulgated under the provisions of this ast, chapter; and

(4) (d) Do do all things necessary and convenient for 15 carrying into effect the fire prevention laws of this state, 16 17 governing-this-act-and

(2) The state fire marshal mayr:

18

(a) adopt necessary rules necessary for safeguarding 19 lives life and property from the bazards of fire and 20 explosion+: and Rules-shall-be-adopted-as-pressribed-in--the 21 #Hontana-Idzinistrative-Procedure-Actu-22

23 (b) If--fire--prevention--rules-are-violatedy-the-fire marshal may if necessary to safequard life and property 24 under rules promulgated pursuant to this section, maintain 25

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an action to enjoin the use of all or a corticn of a 1 2 building or facility, or restrain a specific activity, until 3 there is compliance with the rules. (5)- Rules-relating-to-building-and-equipment-standards 5 covered--by--the---etate---etatesicipal--building-code-age offective-after-approval-by-the-department-of-administration 7 . and filing with the segretary of state. (3) Ryles shall be adopted as prescribed in the 9 Montana Administrative Procedure Act. " 10 Section 35. Section 82-1215, R.C.S. 1947, is amended 11 to read as follows: 12 "82-1215. Duties of marshal and deputies in case of violation of law -- false swearing or contemptuous conduct 13 14 of witnesses. [1] If the state fire marshal or a deputy fire 15 aarshal shall be is notified by any an officer or other persons, person or shall--have--knowledge knows of any a 16 violation of any-of-the-provisions-of-this-act,---or---of the 17 laws of this state relating to fires, it-shall-be-bis-duty 18 19 he\_shall forthwith impediately and diligently to inquire into the facts of such the violationy, and for that purpose 20 21 he The state fire marshal or a deputy fire marshal is hereby authorized to cause-subpectas to be have a subpoena issued 22 23 for such-persons a person as he shall-have has reason to

25 knowledge of such a violation, of the laws relating to

believe have any has information or knowledge concerning, or

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1 fires. The subpoend shall command the person to appear 2 before a justice of the peace at the time and place to-be 3 designated is the subpoena,--then--and--there to testify a concerning any a violation of any-of-the-provisions-of--such 5 laws the laws relating to fires. and for that For the 6 purpose of having a subpoena issued, the said state fire 7 marshal or deputy fire marshal may file with come a justice 8 of the peace a written statement signed by said the state 9 fire marshal or deputy state fire marshal, alleging any a 10 violation of the laws of this state relating to fires, or 11 any of the provisions of this act, and naming the witness to 12 be subpoened, and said the justice of the peace shall then, 13 apon the written practice of ... the otate of reasons and the state of 14 deputy state fire-sarshal, issue a subpoena for the witness named in-said-practico, commanding such-witness hip to be 15 16 and appear before such the justice of the peace at the time 17 designated in such the subpoenar to testify concerning any a violation of the provisions of said laws the laws relating 18 19 to fires. Such subpoones The subpoone way be served by the 20 sheriff or any constable peace officer of the county, or by 21 any other person who is a citizen of the county- and shall 22 deputy state fire marshal, or a justice of the peace, in the 23 24 same manner that subpoenas are served and returned when 25 issued by justices of the peace. Hash The witness shall be

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1 sworn to make true answers to all questions touching the matters under investigation propounded to him touching-the 2 matters -- under -- investigation, and the his testincay ef-each з witness shall be reduced to writing and te signed by the 8 5 witness him. For the purpose of this act, the state fire 6 marshal or a deputy state fire marshal shall-have--authority 7 is authorized to administer an oath to any a person appearing as a witness as-above-provided in a proceeding A 9 investigating a violation of the laws relating to fires. 10 False swearing in such a matter-or proceeding shall--be is perjury and shall be punished as such. Any-dischedicate 11 12 Disobedience to such a subpoena, or or refusal to be sworn as a witness, or to sign the testimony given by such a 17 14 witness, or any refusal to answer any a proper question propounded to bing-shall-be a witness is a misdemeanor, and 15 16 17 of-not fined no more than one-hundred-dellars, \$100 or by imprisonment be imprisoned in the county jail for not--more 18 than--mimety-days any term not to exceed 50 days, or by both 19 20 such-fine-and-isprisonment.

21 (2) Justices of the peace <u>A justice of the peace</u>, when 22 acting under the provisions of this act, <del>chall-have power to</del> 23 <u>may</u> adjourn such proceedings from time to time, and to 24 punish any <u>a</u> witness for contempt for, or on account <u>because</u> 25 of his refusal to be sworn, or to answer questions as a

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1 vitness, or to sign his testimony, and the justice of the peace may compel the attendance of witnesses may be by 2 each-quetice-of-the-peace-compelled by attachment. If the 3 testimony so taken shall-disclose discloses the fact that an 4 offense has been committed, the county attorney of the 5 county in which said the offense was committed shall 6 7 prosecute the person or-persons committing out the offense in the same manner as in other criminal cases." 8

9 Section 36. Section 82-1226, R.C.M. 1947, is amended
10 to read as follows:

#82-1226. Records of fire marshal. The state fire 11 warshal shall keep in his office a record of all fires 12 occurring in the state, the origin of such the fires, and 13 14 all facts, statistics, and circumstances relating thereto, which have been determined by investigations under the 15 provisions of this chapter-: Basept and, except for the 16 testimony given upon during an investigation, such the 17 record shall be open at all times to public inspection." 18

19 Section 37. Section 82-1229, R.C.B. 1947, is amended
20 to read as follows:

21 "82-1229. Annual reports to commissioner of insurance.
22 The state fire marshal shall make an annual report to the
23 commissioner of incurance, attorney general containing a
24 detailed statement of his official action and the
25 transactions of his department, The commissioner of

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1 insurance and the attorney general shall, in turn, submit 2 said the report to the governor of -- the -- state, with such з reconnendations and connents thereon as he may deem considers necessary." B 5 Section 38. Section 94-5-615, R.C.H. 1947, is amended to read as follows: 6 7' "94-5-615. Definitions. As used in this act the 8 following definitions apply: 9 (1) "Department" means the department of health and 10 environmental sciences provided for in fitle 824, chapter 6. 11 (2) "Facility" means a bospital, health care facility, 12 physician's office, or other place in which an abortion is 13 performed. 14 (3) (a) "Informed consent" means voluntary consent to 15 an abortion by the woman upon whom the abortion is to be 16 performed only after full disclosure to her by the physician who is to perform the abortion of such of the following 17 18 information as is reasonably chargeable to the knowledge of 19 such the physician in his professional capacity: 20 (a) (i) The the stage of development of the fetus, the 21 method of abortion to be utilized, and the effects of such 22 abortion method upon the fetus-; 23 (b) (ii) The the physical and psychological effects of 24 abortion-; and

{c}(<u>iii) trailable available</u> alternatives to abortion,

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1 including childbirth and adoption.

2 (b) Such-informed Informed consent may be evidenced by a written statement in the a form prescribed by the 3 department and signed by the physician and the woman upon 4 5 whom the abortion is to be performed in which the physician certifies that he has made the full disclosure provided 6 7 above and in which the woman upon whom the abortion is to be 8 performed acknowledges that the above disclosures have been 9 made to her and that she voluntarily consents to the 10 abortion.

(4) "Abortion" means the performance of, or assistance
or participation in the performance of, or submission to, an
act or operation intended to terminate a pregnancy without
live birth.

15 (5) "Viability" means the ability of a fetus to live
16 outside the mother's womb, albeit with artificial aid."

 17
 Section 39. Repealer.
 Sections
 41-2101
 through

 18
 41-2108, 69-1924, and 82-1232, R.C.B.
 1947, are repealed.

-End-

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