

1                    SENATE BILL NO. 29  
 2    INTRODUCED BY BLAYLOCK  
 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 THROUGH 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        "27-706. Detention or embargo of adulterated or  
 19    misbranded articles -- condemnation proceedings -- immediate  
 20    abatement of nuisances. ~~(a) (1) whenever a duly authorized~~ if  
 21    an agent of the department finds or has probable cause to  
 22    believe that any food, drug, device, or cosmetic is  
 23    adulterated, or so misbranded as to be dangerous or  
 24    fraudulent within the meaning of this act, he shall affix to  
 25    ~~such the~~ the article a tag or other appropriate marking, giving

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

9        ~~(b) (2) when~~ if an article detained or embargoed under  
 10    subsection ~~(a) (1) has been~~ is found by ~~such the~~ 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~~ order for condemnation of ~~such the~~ 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.

18        ~~(c) (3)~~ If the court finds that a detained or embargoed  
 19    article is adulterated or misbranded, ~~such the~~ the article  
 20    shall, after entry of the decree, be destroyed at the  
 21    expense of the claimant thereof, under the supervision of  
 22    ~~such the~~ 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~~ the article or his agent, ~~provided, that when~~ if the  
 25    adulteration or misbranding can be corrected by proper

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 ~~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 unsound, or ~~contains~~ 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 agent, 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."

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

3 "27-707. Proceedings to be instituted and prosecuted  
 4 without delay — defendant's right to be heard by  
 5 department. ~~It shall be the duty of each~~ Each state attorney  
 6 or county attorney, to whom the department reports ~~any a~~  
 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  
 12 proceeding, the person against whom ~~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 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 ~~previous 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,

1 ~~or~~ held for introduction into commerce, or to enter any  
 2 vehicle being used to transport or hold ~~such~~ the foods,  
 3 drugs, devices, ~~or~~ cosmetics in commerce, for the purpose:

4 (a) of inspecting ~~such~~ the factory, warehouse,  
 5 establishment, or vehicle to determine if any of the  
 6 provisions of this act are being violated; and

7 (b) ~~to secure~~ of securing samples or specimens of any  
 8 food, drug, device, or cosmetic after paying or offering to  
 9 pay for ~~such~~ 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:

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

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

1 "50-480.7. Order — no violation — abatement. An  
 2 operator notified of an order made under ~~section 50-480.2~~  
 3 50-480.3 may apply to the division for a hearing or revision  
 4 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,  
 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."

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

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

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

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

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.

24 (9) "Dispense" means to deliver a dangerous drug to an

25 ultimate user or research subject by or pursuant to the

1 lawful order of a practitioner, including the prescribing,

2 administering, packaging, labeling, or compounding necessary

3 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.

8 (13) "Drug" means:

9 (a) ~~substances~~ a substance recognized as ~~drugs~~ a drug

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;

13 (b) ~~substances~~ a substance intended for use in the

14 diagnosis, cure, mitigation, treatment, or prevention of

15 disease in man or animals;

16 (c) ~~substances~~ a substance (other than food) intended

17 to affect the structure or any function of the body of man

18 or animals; and

19 (d) ~~substances~~ a substance intended for use as a

20 component of any article specified in ~~clause~~ (a), (b), or

21 (c) of this subsection. It does not include ~~devices~~ a device

22 or ~~their~~ its components, parts, or accessories.

23 (14) "Immediate precursor" means a substance which the

24 board of pharmacists ~~has found to be~~ finds and by rule

25 designates as being the principal compound commonly used or

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

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

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

1 (17) "Narcotic drug" means any of the following,  
2 whether produced directly or indirectly by extraction from  
3 substances of vegetable origin, ~~or~~ independently by means of  
4 chemical synthesis, or by a combination of extraction and  
5 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 ~~clause (a)~~  
11 17(a) of this section, but not including the isoquinoline  
12 alkaloids, of opium;

13 (c) opium poppy and poppy straw; or

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

20 (18) "Opiate" means 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.  
24 It does not include, unless specifically designated as a  
25 dangerous drug under ~~section 54-302 of this act~~, the

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

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

6 (20) "Person" means an individual, corporation,  
7 government or governmental subdivision or agency, business  
8 trust, estate, trust, partnership, ~~or~~ 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:

13 (a) a physician, dentist, veterinarian, scientific  
14 investigator, or other person licensed, registered, or  
15 otherwise permitted to distribute, dispense, or conduct  
16 research with respect to or to administer a dangerous drug  
17 in the course of professional practice or research in this  
18 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.

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), R.C.M., 1947.~~

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

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

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 ~~remain~~ remains in effect  
 7 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~~  
 11 renewal of registration is refused, if it finds that there  
 12 is an imminent danger to the public health or safety which  
 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 board or dissolved by a court of competent  
 17 jurisdiction."

18 Section 8. Section 69-1401, R.C.M. 1947, is amended to  
 19 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 ~~thereon~~ on them  
 25 or passing ~~thereunder~~, under them or by ~~the same~~, them and

1 to prevent ~~the them from~~ falling ~~thereof~~, or ~~of~~ to prevent  
 2 any material that may be used, placed, or deposited ~~thereon~~  
 3 on them from falling."

4 Section 9. Section 69-1504, R.C.M. 1947, is amended to  
 5 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 valves are of suitable relieving  
 10 capacity ratings, sufficient in number and area, and  
 11 properly arranged, and ~~that the safety valves~~ are properly  
 12 adjusted so as not to allow ~~as a~~ greater pressure in ~~the~~  
 13 ~~boilers~~ 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 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~~ impairs with the safety

1 valve to allow the boiler to carry greater pressure than is  
2 allowed by the inspection certificate, ~~shall be deemed is~~  
3 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 boilers 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 must be used ~~to determine in determining~~ the safe  
15 working pressure ~~allowed on boiler. Where~~ If the horizontal  
16 lap seams of a boiler are exposed to the fire, a factor of  
17 five must be used ~~to determine in determining~~ the safe  
18 working pressure ~~to be allowed on such boiler. On new~~ stay  
19 bolts, ~~if new, seven thousand five hundred~~ 7,500 pounds  
20 pressure per square inch ~~shall be is~~ allowed. If ~~such the~~  
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, ~~eight thousand~~ 8,000 pounds pressure  
24 per square inch ~~shall be is~~ allowed. On welded braces or  
25 braces with only one ~~crew-foot~~ crowfoot, ~~six thousand~~ 6,000

1 pounds pressure per square inch ~~shall be is~~ allowed. No cast  
2 iron ~~shall may~~ be used in the construction or reinforcements  
3 of ~~any a~~ boiler ~~where if~~ the pressure allowed on ~~said the~~  
4 boiler is more than ~~one hundred~~ 100 pounds per square inch."

5 Section 10. Section 69-1508, R.C.M. 1947, is amended  
6 to read as follows:

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

21 Section 11. Section 69-1509, R.C.M. 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



1 specified in the preceding section, ~~must be~~ are divided into  
 2 four classes, namely: first-class engineers, second-class  
 3 engineers, third-class engineers, and low-pressure  
 4 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 schedule:

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~~ steam-driven machinery  
 11 with the exception of traction and hoisting engines.

12 (b) Second-class engineers ~~shall be~~ are licensed to  
 13 operate steam boilers operating not in excess of ~~two hundred~~  
 14 ~~fifty~~ (250) 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 gauge  
 17 pressure and ~~four hundred fifty degrees Fahrenheit~~ (450° F)  
 18 450 degrees F temperature, and ~~steam-driven~~ steam-driven  
 19 machinery not to exceed ~~one hundred~~ (100) horsepower per  
 20 unit, with the exception of traction and hoisting engines.

21 (c) Third-class engineers ~~shall be~~ are licensed to  
 22 operate steam boilers operating not in excess of ~~one hundred~~  
 23 ~~(100)~~ pounds per square inch gauge saturated steam pressure  
 24 ~~or~~ and water boilers operating not in excess of ~~one hundred~~  
 25 ~~sixty~~ (160) pounds per square inch gauge pressure and ~~three~~

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

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 ~~Fahrenheit~~ (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 made: ~~Each applicant for any classification must be~~  
 14 ~~physically and mentally capable of performing the required~~  
 15 ~~duties for the class of engineer's license for which~~  
 16 ~~application is being made.~~

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

1       (b) ~~Applicants~~ An applicant for a third-class  
2 engineer's license shall must have ~~no less than six~~ at least  
3 ~~(6)~~ months' 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 he~~ found to be  
8 competent to operate a boiler ~~or boilers~~ in this  
9 classification ~~shall be granted a third-class engineer's~~  
10 ~~license.~~

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

13       ~~(1)(i)~~ no less than two 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,  
16 under an engineer holding a valid second-class or  
17 first-class license, ~~and~~ successfully pass a written  
18 examination prescribed by the division, ~~and has have~~ passed  
19 his ~~eighteenth~~ (18th) birthday, and ~~is he~~ found to be  
20 competent to operate a boiler ~~or boilers~~ and ~~steam-driven~~  
21 ~~steam-driven~~ machinery in this classification ~~shall be~~  
22 ~~granted a second-class engineer's license; or~~

23       ~~(2)(iii)~~ hold 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

1       ~~steam-driven steam-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 examination prescribed by the division, ~~and has have~~ passed  
5 his ~~eighteenth~~ (18th) birthday, and ~~is he~~ found to be  
6 competent to operate a boiler ~~or boilers~~ and ~~steam-driven~~  
7 ~~steam-driven~~ machinery in this classification ~~shall be~~  
8 ~~granted a second-class engineer's license.~~

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

11       ~~(1)(i)~~ no less than three have at least (3) years'  
12 full-time experience in the ~~actual~~ operation of a boiler and  
13 ~~steam-driven steam-driven~~ machinery in this classification,  
14 under an engineer holding a valid first-class license, ~~and~~  
15 successfully pass a written examination prescribed by the  
16 division, ~~and has have~~ passed his ~~eighteenth~~ (18th)  
17 birthday, and ~~is he~~ found to be competent to operate a  
18 boiler ~~or boilers~~ and ~~steam-driven steam-driven~~ machinery in  
19 this classification, ~~shall be granted a first-class~~  
20 ~~engineer's license; or~~

21       ~~(2)(iii)~~ 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~~

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

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

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

21 ~~(4)(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

1 subsection (3) of this section, successfully ~~pass~~ passing a  
 2 written examination prescribed by the division, and ~~is~~ found  
 3 to be competent to operate a boiler ~~or boilers~~ and ~~steam~~  
 4 ~~driven~~ steam-driven machinery in that classification shall  
 5 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 services or the~~  
 10 ~~merchant 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 ~~(2)(c)~~ Applicants with An applicant having training in  
 14 the ~~actual~~ operation of steam or water boilers and steam  
 15 machinery who ~~have~~ has been certified as having  
 16 satisfactorily completed a prescribed training course from a  
 17 recognized vocational-technical training school or center or  
 18 other ~~division-approved~~ division-approved institution or  
 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 ~~six~~ (6) months' experience toward a first,  
 22 second, or third-class engineer's license.

23 ~~(4)(5)~~ None of the licenses named in subsections (1)  
 24 and (2) of this section ~~above named shall~~ entitle the its  
 25 holder ~~thereof~~ to operate a traction engine, ~~but all~~

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 as a traction~~  
 6 ~~license. Such~~ A traction license shall does not entitle the  
 7 its holder ~~thereof~~ to operate any other class of steam  
 8 machinery ~~specified in the preceding section. Applicants~~ An  
 9 applicant for a traction engineer's license shall must have  
 10 ~~no less than six~~ at least (6) months' full-time experience  
 11 in the operation of steam traction engines, ~~and~~ successfully  
 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 ~~granted a traction engineer's license.~~ 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.M. 1947, is amended  
 21 to read as follows:

22 "69-1802. Application of act --- definitions. Sections  
 23 69-1801 through 69-1810, ~~R.C.M. 1947,~~ apply to the ~~following~~  
 24 occupancies defined below:

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

1 a building or structure or any portion thereof by a  
 2 gathering of persons for civic, political, travel,  
 3 religious, social, or recreational purposes, including  
 4 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 (l) lecture halls;
- 17 (m) lodge rooms;
- 18 (n) motion picture theaters;
- 19 (o) museums;
- 20 (p) night clubs;
- 21 (q) opera houses;
- 22 (r) passenger stations;
- 23 (s) pool rooms;
- 24 (t) recreation areas;
- 25 (u) restaurants;

1 (v) skating rinks;  
 2 (w) television studios;  
 3 (x) theaters; and  
 4 (y) taverns.  
 5 (2) "Business occupancy" means the occupancy or use of  
 6 a building or structure or any portion thereof for the  
 7 transaction of business, or the rendering or receiving of  
 8 professional services, including among others:  
 9 (a) banks;  
 10 (b) barber shops;  
 11 (c) beauty parlors;  
 12 (d) office buildings;  
 13 (e) radio stations;  
 14 (f) telephone exchanges; and  
 15 (g) television stations.  
 16 (3) "Educational occupancy" means the occupancy or use  
 17 of a building or structure or any portion thereof by persons  
 18 assembled for the purpose of learning or of receiving  
 19 educational instruction, including among others:  
 20 (a) academies;  
 21 (b) colleges;  
 22 (c) libraries;  
 23 (d) schools; and  
 24 (e) universities.  
 25 (4) "Industrial occupancy" means the occupancy or use

1 of a building or structure or any portion thereof for  
 2 assembling, fabricating, finishing, manufacturing,  
 3 packaging, or processing operations, including among  
 4 others:  
 5 (a) assembly plants;  
 6 (b) creameries;  
 7 (c) electric substations;  
 8 (d) factories;  
 9 (e) ice plants;  
 10 (f) laboratories;  
 11 (g) laundries;  
 12 (h) manufacturing plants;  
 13 (i) mills;  
 14 (j) power plants;  
 15 (k) processing plants;  
 16 (l) pumping stations;  
 17 (m) repair garages;  
 18 (n) smoke houses; and  
 19 (o) ~~work shops~~ workshops.  
 20 (5) "Institutional occupancy" means the occupancy or  
 21 use of a building or structure or any portion thereof by  
 22 persons harbored or detained to receive medical, charitable,  
 23 or other care or treatment, or by persons involuntarily  
 24 detained, including among others:  
 25 (a) asylums;

1       **(b)** homes for the aged;  
 2       **(c)** hospitals;  
 3       **(d)** houses of correction;  
 4       **(e)** day care facilities;  
 5       **(f)** infirmaries;  
 6       **(g)** jails;  
 7       **(h)** nurseries;  
 8       **(i)** orphanages;  
 9       **(j)** nursing homes;  
 10       **(k)** penal institutions;  
 11       **(l)** reformatories;  
 12       **(m)** sanitariums;  
 13       **(n)** long-term care facilities; and  
 14       **(o)** boarding homes;  
 15       (6) "Residential occupancy" means the occupancy or use  
 16 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, ~~(but not including~~  
 21 single-family private houses):  
 22       **(a)** apartments;  
 23       **(b)** ~~club houses~~ clubhouses;  
 24       **(c)** convents;  
 25       **(d)** dormitories;

1       **(e)** dwellings;  
 2       **(f)** hotels;  
 3       **(g)** motels;  
 4       **(h)** multifamily houses; and  
 5       **(i)** lodging houses,  
 6 ~~but not including single-family private houses."~~  
 7       Section 13. Section 69-1808, R.C.M. 1947, is amended  
 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 ~~municipalities~~ 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 municipality, an assembly, educational, or institutional  
 22 occupancy may not be constructed or have alterations made  
 23 costing ~~fifteen hundred dollars~~ ~~(\$1,500)~~ or more ~~unless~~  
 24 until a permit has been issued for the construction or  
 25 alteration by the county commissioners. A fee of ~~ten dollars~~

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

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

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

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

3 (5) When ~~any~~ a building ~~shall be~~ is found which  
 4 ~~required~~ requires the erection of fire escapes, and upon  
 5 which fire escapes have not been erected according to the  
 6 provisions of this act, or if fire hoses, fire  
 7 extinguishers, fire alarms, or other fire apparatus is found  
 8 to be lacking or defective or not in good working condition,  
 9 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  
 13 the time within which ~~said~~ the fire escapes shall be  
 14 erected, or ~~such~~ the defective conditions be remedied, ~~and~~  
 15 ~~in no case shall~~ which may not be more than ~~ninety (90)~~  
 16 ~~days,~~ and said The notice ~~shall be deemed to have been~~ is  
 17 served if delivered to the person to be notified, ~~or~~ if left  
 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 terms of this act, that~~ are managed and controlled by a  
 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,

1 ~~board of commissioners, or other governing body, to cause~~  
 2 ~~the erection of fire escapes on said buildings, as may be~~  
 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, ~~shall be~~ 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 ~~shall not be construed to be~~ is  
 9 not a breach of any existing lease, contract, or any  
 10 covenant thereof ~~nor~~ 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~~  
 14 of this act, and ~~such 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 marshal. Said 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.M. 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, or  
 25 keep within ~~one~~ 1 mile of the limits of any a city, town, or

1 village any powder, gunpowder, giant or Hercules powder, or  
 2 other highly explosive substance, in ~~greater quantities than~~  
 3 ~~one hundred excess of 100 pounds, or more than one thousand~~  
 4 1,000 giant caps, ~~at any one time,~~ nor shall ~~such~~ may  
 5 explosives be stored, deposited, or kept in any quantities  
 6 quantity whatever within ~~one~~ 1 mile of ~~such a~~ a city, town, or  
 7 village, except in a magazine constructed as hereinafter  
 8 ~~described, provided for in 69-1907, provided, that this~~ This  
 9 section ~~shall not be construed to~~ does not prevent any a  
 10 person, company, or corporation, operating a mine within ~~one~~  
 11 1 mile of the limits of ~~such a~~ 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,~~  
 14 ~~provided also, that this~~ This section shall does not prevent  
 15 the keeping of a reasonable amount of gunpowder, not  
 16 exceeding ~~fifty~~ 50 pounds, in a safe place for sale."

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

19 "69-1925. ~~Magazines, etc.,~~ Transportation vehicle to  
 20 bear warning signs. ~~Every storehouse or magazine constructed~~  
 21 ~~as provided in the foregoing section, in which shall be~~  
 22 ~~stored, deposited, or kept any powder, gunpowder, giant or~~  
 23 ~~Hercules powder, giant caps, or other highly explosive~~  
 24 ~~substance, shall at all times have posted above the entrance~~  
 25 ~~thereof a signboard on which shall be painted in conspicuous~~



1 ~~letters not less than four inches in length the words~~  
 2 ~~"explosives dangerous." Every dray, wagon, freight car, or~~  
 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, R.C.M. 1947, is amended  
 9 to read as follows:

10 "69-2111. Adoption of rules by department. (1) The  
 11 department shall adopt by reference nationally recognized  
 12 building codes in whole or in part, amend ~~and~~ or repeal  
 13 rules relating to the construction of all buildings or  
 14 classes of buildings or the installation of equipment in  
 15 those buildings, and may by rule prescribe standards or  
 16 requirements for materials to be used in buildings,  
 17 including provisions dealing with safety, sanitation, and  
 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 hearings relating to the  
 23 administration of this act in accordance with the Montana  
 24 Administrative Procedure Act.

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

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

4 (4) If a hearing has been held by the ~~department of~~  
 5 justice state fire marshal with respect to ~~its~~ his duties  
 6 contained in Title 82, chapter 12, or by the board of  
 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  
 10 proposed rule relating to building and equipment standards  
 11 in their respective fields, a public hearing by the  
 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 marshal 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, ventilation, and air conditioning, or  
 21 the state electrical board which conflicts with the state  
 22 building code, the department after consultation with the  
 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 agencies affected.~~

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

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

8 ~~or (2)~~ The term "fireworks" ~~shall mean 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 include~~ includes sky rockets, ~~Roman roman~~ candles,  
14 ~~Daygo daygo~~ bombs, blank cartridges, toy cannons, toy canes,  
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, sparklers  
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.  
21 ~~Nothing in this law shall be construed as applying~~ This  
22 chapter does not apply to toy paper caps containing ~~not more~~  
23 less than ~~twenty-five hundredths (1/25)~~ 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

1 operation of railroads or other classes of public or private  
2 transportation, ~~not applying~~ to the military or ~~navy~~ naval  
3 forces of the United States or ~~of~~ this state, ~~or~~ to peace  
4 officers, ~~not as prohibiting or to~~ the sale or use of blank  
5 cartridges for ceremonial, ~~or~~ theatrical, or athletic  
6 events.

7 ~~or (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 ~~herewith~~ enumerated in subsection (4) of this  
12 section.

13 (4) Permissible fireworks, ~~shall include dangerous~~  
14 ~~articles and, more specifically, shall~~ excluding sky  
15 rockets, roman candles, daygo bombs, firecrackers, and  
16 bottle rockets, include and be are limited to the following  
17 ~~but specifically excluding sky rockets, Roman candles and~~  
18 ~~Daygo bombs, firecrackers and bottle rockets:~~

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

22 (4)(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 ~~shall not~~  
25 to exceed three-fourths ~~(3/4)~~ of an inch;

1 ~~(3)~~ (c) Cone cone fountains, the total pyrotechnic  
2 composition not to exceed ~~fifty~~ (50) grams each in weight;

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

8 ~~(5)~~ (e) 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) Sparklers sparklers and dipped sticks, the  
12 total pyrotechnic composition not to exceed ~~one hundred~~  
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) Whistles whistles without report, the total  
17 pyrotechnic composition not to exceed ~~forty~~ (40) grams each  
18 in weight.

19 ~~(5)~~ 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 ~~(6)~~ It shall be is unlawful for ~~any~~ a wholesaler to  
25 sell or offer for sale, within the state of Montana,

1 fireworks except as ~~herein defined~~ enumerated in subsection  
2 (4) of this section. It shall be is lawful for ~~said~~ a  
3 wholesaler, however, to transport ~~said~~ fireworks within the  
4 ~~state of Montana~~ for sale outside of the state of ~~Montana~~.

5 ~~or~~ (7) No person, firm, or corporation shall may offer  
6 fireworks of any kind ~~as defined herein~~ for sale at retail  
7 before ~~the 24th day of June 24~~ and after ~~the 5th day of July~~  
8 5.

9 ~~or~~ (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.M. 1947, is amended  
15 to read as follows:

16 "69-2702. Supervised public display of fireworks.  
17 ~~Except as hereinafter provided, it shall be unlawful for any~~  
18 ~~person, firm, partnership, association or corporation to~~  
19 ~~possess, offer for sale, expose 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~~ them, to grant permits  
24 for supervised public displays of fireworks to be held  
25 ~~therein~~ by municipalities, fair associations, amusement

1 parks, and other organizations or groups of individuals.  
 2 ~~Every such~~ Each display shall be handled by a competent  
 3 operator, ~~to~~ 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 such a character, and~~  
 6 ~~be~~ 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 or endanger 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 ~~each~~  
 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 ~~hereunder 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.M. 1947, is amended  
 20 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.

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 ~~act~~ section 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 ~~composition.~~ There  
 12 is a county board of health in each county consisting of:

13 (1) the county commissioners, and two ~~(2)~~ members who  
 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 members shall be staggered and ~~shall be for three~~  
 19 ~~(3)~~ years each. ~~County~~ The county commissioners shall  
 20 establish the staggered order of terms and all ~~regulations~~  
 21 rules 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

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

4 (2) Appropriations are made as follows:

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 Title 16, chapter 19, ~~Title 16, R. C. S. 1947.~~  
9 1947.

10 (b) City boards are financed by an appropriation from  
11 the general fund of the city after approval of a budget in  
12 the way provided for other city offices and departments  
13 under Title 11, chapter 14, ~~Title 11, R. C. S. 1947.~~

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 cities, may mutually agree upon  
18 the division of expenses. The ~~county~~ 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  
22 Title 16, chapter 19, ~~Title 16, R. C. S. 1947.~~ The ~~city, or~~  
23 ~~cities,~~ Each participating city's part of the total costs  
24 expenses is financed by an appropriation from the general  
25 fund of the ~~city, or cities, participating in the~~

1 ~~city-county board~~ after approval of a budget in the way  
2 provided for other city offices and departments under Title  
3 11, chapter 14, ~~Title 11, R. C. S. 1947.~~ All moneys shall be  
4 deposited with the county treasurer who shall disburse them  
5 as county funds, ~~or~~

6 (ii) In first and second class counties, the county  
7 commissioners and governing body of ~~the~~ each participating  
8 ~~city, or cities,~~ may mutually agree upon the division of the  
9 expenses. The ~~county~~ county's 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 ~~cities, participating in the city-county board~~ after  
14 approval of a budget in the way provided for other county  
15 offices and departments under Title 16, chapter 19, ~~Title~~  
16 ~~16, R. C. S. 1947.~~ If the ~~five~~ (5) ~~mill~~ 5-mill levy is not  
17 sufficient to fund the ~~county~~ county's share, the county  
18 commissioners may supplement it with an appropriation from  
19 the county general fund. Each ~~city, or cities,~~ participating  
20 city's part of the total costs expenses is financed by a  
21 special levy of not more than ~~five~~ (5) mills on the taxable  
22 valuation of all property within the incorporated limits of  
23 the ~~city, or cities, 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,

1 ~~Title 11, P.C.M. 1947.~~ All moneys shall be deposited with  
2 the county treasurer who shall disburse them as county  
3 funds. The special levies authorized by this subsection are  
4 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.  
8 First and second class cities which elect to be included in  
9 the district contribute to the county in which they are  
10 located in the way provided for city-county boards under  
11 subsection (2)(c) of this section. All funds shall be  
12 deposited with the county treasurer of one ~~(1)~~ of the  
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 nonofficial  
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, P.C.M. 1947, is amended

1 to read as follows:

2 "69-5201. Definitions. As used in this chapter, unless  
3 the context clearly indicates otherwise, the following  
4 definitions apply:

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

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

1 ~~alcoholism~~ and drug dependency centers, and half-way houses.  
 2 A health care facility, in order to be licensed as a  
 3 ~~hospital-related hospital-related~~ facility", shall be in  
 4 compliance with the regulations, for the specific category  
 5 of facility, ~~as promulgated and~~ adopted by the state  
 6 department ~~of health and environmental sciences.~~

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

18 (4) An "observation bed" is a bed used by a patient  
 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

1 dentistry in ~~the state of~~ Montana, but which does not have  
 2 an observation bed or beds as defined in subsection ~~(2)~~ ~~(a)~~  
 3 ~~(4)~~.

4 ~~(a) (6)~~ "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 ~~(a) (7)~~ "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 ~~(a) (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 includes the facilities defined as follows:

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

1 services ~~twenty-four~~ (24) hours a day.

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 ~~(\*)~~ (9) "Infirmiry" means a facility located in a  
16 university, college, government institution, or industry,  
17 for the treatment of the sick or injured.

18 ~~(\*)~~ (10) "Infirmiry—A" provides outpatient and  
19 inpatient care.

20 ~~(\*)~~ (11) "Infirmiry—B" provides outpatient care only.

21 ~~(\*)~~ (12) "Person" means ~~any~~ an individual, firm,  
22 partnership, association, ~~or~~ corporation, or governmental  
23 unit.

24 ~~(\*)~~ (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 ~~(\*)~~ (14) "Resident" means a person who is in a long-term  
3 care facility as a patient or for personal care.

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

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,  
11 remodeling, or alteration of ~~any~~ a new or existing facility,  
12 the capital expenditure for which amounts to ~~fifty-thousand~~  
13 ~~dollars~~ ~~(\$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 ~~ten~~  
16 ~~percent~~ ~~(10%)~~ of the licensed capacity of the facility, or  
17 in excess of ~~ten~~ ~~(10)~~ beds, whichever is the lesser, or any  
18 purchase of therapeutic or diagnostic equipment (excluding  
19 replacement of existing equipment) in any ~~twelve-month~~  
20 12-month period, at a cost exceeding ~~two percent~~ ~~(2%)~~ of the  
21 facility's total operating costs for the most recently  
22 completed fiscal year up to a maximum of ~~one-hundred~~  
23 ~~thousand dollars~~ ~~(\$100,000)~~, or exceeding ~~ten-thousand~~  
24 ~~dollars~~ ~~(\$10,000)~~, whichever is larger. All exemptions from  
25 this definition must nevertheless be consistent with the



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:

4 "69-5207. Denial of application for long-term care  
5 facility. The department may deny an application for a  
6 long-term care facility license if:

7 (1) it fails to meet minimum standards prescribed  
8 under ~~section~~ 69-5213;

9 (2) the staff is insufficient in number or unqualified  
10 by lack of training or experience;

11 (3) the applicant or any person managing it has been  
12 convicted of a felony and denial of a license on that basis  
13 is qualified by 66-4003 or the applicant otherwise shows  
14 evidence of character traits inimical to the health and  
15 safety of residents; or

16 (4) ~~it~~ the applicant does not have the financial  
17 ability to operate the facility in accordance with law, ~~or~~  
18 rules, or standards adopted by the department."

19 Section 24. Section 69-5502, R.C.M. 1947, is amended  
20 to read as follows:

21 "69-5502. Definitions. As used in this chapter, unless  
22 the context clearly indicates otherwise, the following  
23 definitions apply:

24 (1) "Public swimming pool" means ~~any~~ an artificial  
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 bathing only by the owner, members of his  
5 family, or their invited guests; or

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, partnership,  
11 corporation, organization, the state, or any political  
12 subdivision of the state."

13 Section 25. Section 69-6701, R.C.M. 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 82A, 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—O, A, B, AB) and RH  
21 (Dd) type, approved by the department."

22 Section 26. Section 69-6704, R.C.M. 1947, is amended  
23 to read as follows:

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

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

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

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

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) "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) ~~any~~ a substance or mixture of substances which:

18 (A) is toxic;<sub>i</sub>

19 (B) is corrosive;<sub>i</sub>

20 (C) is an irritant;<sub>i</sub>

21 (D) is a strong sensitizer;<sub>i</sub>

22 (E) is flammable or combustible;<sub>i</sub> 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

1 during or as a proximate result of any customary or  
2 reasonably foreseeable handling or use, including reasonably  
3 foreseeable ingestion by children;<sub>i</sub>

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

8 (iii) ~~any~~ 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;<sub>i</sub> or

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

19 (b) The term "hazardous substance" does not apply to  
20 pesticides subject to the ~~Federal~~ federal Pesticide  
21 Environmental Control Act or the Montana ~~Pesticide~~  
22 Pesticides Act, ~~as~~ to foods, drugs, and cosmetics subject  
23 to the Montana Food, Drug, and Cosmetic Act, ~~as~~ or to  
24 substances intended for use as fuels when stored in  
25 containers and used in the heating, cooking, or

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

13 (c) The term "hazardous substance" does not include  
 14 ~~any~~ source material, special nuclear material, or by-product  
 15 material as defined in the Atomic Energy Act of 1954, as  
 16 amended, and rules issued pursuant thereto by the atomic  
 17 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~~ a 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

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

5 (ii) produces death within ~~fourteen~~ (14) days in  
 6 one-half ~~(1/2)~~ or more of a group of ~~ten~~ (10) or more  
 7 laboratory white rats each weighing between ~~two-hundred~~  
 8 ~~(200)~~ and ~~three-hundred~~ (300) grams, when inhaled  
 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 dust, if ~~such~~ that concentration is likely to be encountered  
 14 by man when the substance is used in ~~any~~ a reasonably  
 15 foreseeable manner; or

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

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

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 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 flammable" applies to ~~any~~ a  
14 substance which has a flash point at or below ~~twenty degrees~~  
15 ~~(30) fahrenheit~~ 20 degrees F. 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 twenty degrees (20)~~ 20 degrees to  
19 and including ~~eighty degrees (80) fahrenheit~~ 80 degrees F.  
20 as determined by the tagliabue open cup tester.

21 ~~(b) (c)~~ "Combustible" applies to ~~any~~ a substance which  
22 has a flash point above ~~eighty degrees (80) fahrenheit~~ 80  
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~~

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

9 (11) "Radioactive 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  
13 container" does not include package liners) of ~~any~~ a  
14 substance, or, in the case of an article which is unpackaged  
15 or is not packaged in an immediate container intended or  
16 suitable for delivery to the ultimate consumer, a display of  
17 such matter directly upon the article involved or upon a tag  
18 or other suitable material affixed thereto, ~~and~~ ~~a~~ A  
19 requirement made by or under authority of this act that ~~any~~  
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 information also appears:

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

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

3 ~~(12) "Immediate container" does not include package~~  
4 ~~liners.~~

5 ~~(14)~~ (13) "Misbranded hazardous substance" means a  
6 hazardous substance (including a toy, or other article  
7 intended for use by children, which is a hazardous  
8 substance, or which bears or contains a hazardous substance  
9 in such a manner as to be susceptible of access by a child  
10 to whom ~~such~~ the toy or other article is entrusted)  
11 intended, or packaged in a form suitable for use by the  
12 public or by children, which ~~substance~~, except as otherwise  
13 provided ~~by or under section 69-7103 under 69-7103(2) or~~  
14 (3), fails to bear a label:

15 (a) which states conspicuously;

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

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

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

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

1 (v) an affirmative statement of the principal hazard  
2 or hazards, such as:

3 (A) "flammable";

4 (B) "combustible";

5 (C) "vapor harmful";

6 (D) "causes burns";

7 (E) "absorbed through skin"; or

8 (F) similar wording descriptive of the hazard;

9 (vi) precautionary measures describing the action to be  
10 followed or avoided, except when modified by a rule of the  
11 department under ~~section 69-7103(2) or (3)~~;

12 (vii) instruction, when necessary or appropriate, for  
13 ~~first-aid~~ first aid treatment;

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

16 and

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

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

22 (B) if the article is intended for use by children and  
23 is not a banned hazardous substance, adequate directions for  
24 the protection of children from the hazard; and

25 (b) on which ~~any~~ a statement required under

1 ~~subparagraph (a) of this paragraph are~~ subsection (13) (a) of  
 2 this section is located prominently and ~~are~~ is in the  
 3 English language in conspicuous and legible type in contrast  
 4 by typography, layout, or color with other printed matter on  
 5 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 bears 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 hazardous  
 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 ~~such~~ the 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 commerce. ~~However, the~~

23 (b) The department by rule, shall exempt from ~~clause~~  
 24 ~~(i) of this paragraph subsection (14) (a) (i) of this section~~  
 25 articles, such as chemical sets, which, by reason of their

1 functional purpose, require the inclusion of the hazardous  
 2 substance involved or necessarily present an electrical,  
 3 mechanical, or thermal hazard, and which bear 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 ~~69-7102 of the act subsections (4) and (5) of 69-7103.~~

13 ~~(16) (15)~~ An 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 ~~(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;

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

1 accessory thereof);  
 2 (c) from points or other protrusions, surfaces, edges,  
 3 openings, or closures;  
 4 (d) from moving parts;  
 5 (e) from lack or insufficiency of controls to reduce  
 6 or stop motion;  
 7 (f) as a result of self-adhering characteristics of  
 8 the article;  
 9 (g) because the article (or ~~any~~ a part or accessory  
 10 thereof) may be aspirated or ingested;  
 11 (h) because of instability; or  
 12 (i) because of any other aspect of the article's  
 13 design or manufacture.

14 ~~(17)~~ An article may be determined to present a  
 15 thermal hazard if, in normal use or when subjected to  
 16 reasonably foreseeable damage or abuse, its design or  
 17 manufacture presents an unreasonable risk of personal injury  
 18 or illness because of heat as from heated parts, substances,  
 19 or surfaces.

20 ~~(18)~~ "Court" means, in ~~section 69-7103~~ 69-7103(5),  
 21 the district court for the first judicial district, and, in  
 22 ~~sections 69-7106 and 69-7107~~, the district court ~~is~~ in the  
 23 district ~~in which~~ where the violation occurs."

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

1 "69-7103. Declaration of hazardous substance —  
 2 labeling requirements — court proceedings. (1) When in the  
 3 judgment of the department such action will promote the  
 4 objectives of this act by avoiding or resolving uncertainty  
 5 as to its application, the department may by rule declare to  
 6 be a hazardous substance, ~~for the purposes of this act, any~~  
 7 a substance or mixture of substances which the department  
 8 finds meets the requirements of ~~subparagraph (a)(i)~~  
 9 subsection (4)(a)(i) of section 69-7102(4) 69-7102.

10 (2) If the department finds that the requirements of  
 11 ~~section 69-7102(4)(a) 69-7102(13)(a)~~ are not adequate for  
 12 the protection of the public health and safety in view of  
 13 the special hazard presented by ~~any particular~~ a 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 hazard  
 24 presented by the substance contained therein, or for other  
 25 good and sufficient reasons, full compliance with the

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 ~~such~~ 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 devised,  
 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.

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

18 (b) If, before or during a proceeding under ~~paragraph~~  
 19 ~~(a) of this subsection~~ subsection (5)(a) of this section,  
 20 the department finds that, because of an electrical,  
 21 mechanical, or thermal hazard, 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 ~~such~~ the  
 24 finding, the toy or other article ~~shall be~~ is a banned  
 25 hazardous substance for purposes of this act until the

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

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

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



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

7 (iii) Upon the filing of the petition under ~~this~~  
 8 ~~paragraph subsection (5)(c) of this section~~, the court has  
 9 jurisdiction to review the determination of the department.  
 10 If the court ordered additional evidence to be taken under  
 11 ~~subparagraph (ii) of this paragraph subsection (5)(c)(iii) of~~  
 12 ~~this section~~, the court shall also review the department's  
 13 determination to determine if, on the basis of the entire  
 14 record before the court under ~~subparagraphs (i) and (ii) of~~  
 15 ~~this paragraph subsections (5)(c)(i) and (5)(c)(ii) of this~~  
 16 ~~section~~, it is supported by substantial evidence. If the  
 17 court finds the determination is not so supported, the court  
 18 may set it aside. With respect to ~~any~~ a determination  
 19 reviewed under ~~this paragraph subsection (5)(c) of this~~  
 20 ~~section~~, the court may grant appropriate relief pending  
 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 ~~not~~ no more than ~~five~~  
 2 ~~hundred dollars (\$500)~~ or be imprisoned for ~~not more than~~  
 3 ~~any term not to exceed sixty (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  
 6 imprisonment for ~~not more than any term not to exceed one~~  
 7 ~~(1) year~~, or a fine of ~~not~~ no more than ~~three thousand~~  
 8 ~~dollars (\$3,000)~~, or both ~~imprisonment and fine~~.

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

11 (a) for having violated ~~section~~ 69-7104(3), if the  
 12 receipt, delivery, or proffered delivery of the hazardous  
 13 substance was made in good faith, unless he refuses to  
 14 furnish on request of an officer or employee duly designated  
 15 by the department, 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 be~~, pertaining to  
 18 the delivery of the hazardous substance to him; or

19 (b) for having violated ~~section~~ 69-7104(1), if he  
 20 establishes a guarantee or undertaking signed by, and  
 21 containing the name and address of, the person residing in  
 22 the United States from whom he received in good faith the  
 23 hazardous substance, 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

1 this act."

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

4 "69-7107. Detainer of misbranded or banned hazardous  
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  
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  
12 substance and has been detained or embargoed, 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) ~~When~~ 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 ~~label~~ an order of  
25 condemnation of ~~such~~ the article. ~~When such~~ If the agent

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

4 (3) If the court finds that a detained or embargoed  
5 article is misbranded or a banned hazardous substance, ~~such~~  
6 the article shall, after entry of the decree, be destroyed  
7 at the expense of the claimant thereof, under supervision of  
8 ~~such~~ the agent, and all court costs and fees and storage and  
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  
16 order direct that ~~such~~ the article be delivered to the  
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  
22 violation of this act, and that the expenses of ~~such~~ the  
23 supervision have been paid."

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

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

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:

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

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

3       ~~(b)(c)~~ (c) ~~to~~ inspect, at reasonable times, ~~and~~ within  
 4 reasonable limits, and in 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

8       ~~(c)(d)~~ (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 ~~such the~~ sample  
 13 and give a receipt describing the samples obtained.

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

1 the appropriate regulating agency for appropriate action."

2 Section 33. Section 82-1201, R.C.M. 1947, is amended  
3 to read as follows:

4 "82-1201. ~~Creation of office of state fire~~ fire  
5 ~~marshal fire prevention advisory commission~~ bureau.

6 (1) There is ~~an office of state~~ a fire marshal, bureau in  
7 the department of justice which is under the supervision and  
8 control of the ~~commissioner of insurance~~ attorney general.

9 (2) The ~~state~~ chief of the fire marshal bureau shall  
10 be appointed by the ~~commissioner of insurance~~ attorney  
11 general and shall serve at his pleasure. The chief of the  
12 fire marshal bureau is the state fire marshal.

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~~

16 (b) have a degree in engineering from a recognized  
17 institution of higher education and ~~two~~ (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 ~~(4) Not later than thirty (30) days after this act~~  
23 ~~becomes effective the commissioner of insurance shall~~  
24 ~~appoint a fire prevention advisory commission composed of~~  
25 ~~the following members:~~

1 ~~(a) One person representing the fire insurance~~  
2 ~~industry whose initial term shall be for one (1) year;~~

3 ~~(b) One person representing industry whose initial~~  
4 ~~term shall be for one (1) year;~~

5 ~~(c) One person representing full-time paid fire~~  
6 ~~departments whose initial term shall be for two (2) years;~~

7 ~~(d) One person representing volunteer fire departments~~  
8 ~~whose initial term shall be for two (2) years;~~

9 ~~(e) One person representing architects of the state~~  
10 ~~whose initial term shall be for three (3) years;~~

11 ~~(f) One person representing the public whose initial~~  
12 ~~term shall be for four (4) years;~~

13 ~~(g) The commissioner of insurance.~~

14 ~~After termination of the initial term, all members~~  
15 ~~shall be appointed for four (4) year terms. Appointed~~  
16 ~~members of the commission shall be reimbursed for meetings~~  
17 ~~at the rate of twenty dollars (\$20) per day plus actual~~  
18 ~~expenses including mileage, food, and lodging. The~~  
19 ~~commissioner of insurance shall serve as chairman, and the~~  
20 ~~state fire marshal shall serve as secretary of the~~  
21 ~~commission.~~"

22 Section 34. Section 82-1202, R.C.M. 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:

1 ~~(1)(a)~~ Make ~~make~~ at least one inspection ~~during every~~  
2 a 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)~~ Make ~~make~~ at least one inspection ~~during every~~  
7 a year, of each unit of the Montana university system, and  
8 submit a copy of the report to the ~~executive secretary 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)~~ Inspect ~~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)~~ Do ~~do~~ all things necessary and convenient for  
16 carrying into effect the fire prevention laws of this state,  
17 ~~governing this act and~~

18 (2) The state fire marshal may;

19 (a) adopt necessary rules necessary for safeguarding  
20 lives life and property from the hazards of fire and  
21 explosion; ~~and Rules shall be adopted as prescribed in the~~  
22 ~~"Montana Administrative Procedure Act".~~

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

1 an action to enjoin the use of all or a portion of a  
2 building or facility, or restrain a specific activity, until  
3 there is compliance with the rules.

4 ~~(5) Rules relating to building and equipment standards~~  
5 ~~covered by the state or a municipal building code are~~  
6 ~~effective after approval by the department of administration~~  
7 ~~and filing with the secretary of state.~~

8 (3) Rules shall be adopted as prescribed in the  
9 Montana Administrative Procedure Act."

10 Section 35. Section 82-1215, R.C.M. 1947, is amended  
11 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 shall be is notified by any an officer or other  
16 persons, person or ~~shall have knowledge~~ knows of any a  
17 violation of any of the provisions of this act, or of the  
18 laws of this state relating to fires, it shall be his duty  
19 he shall forthwith immediately and diligently ~~to~~ inquire  
20 into the facts of such the violation, ~~and for that purpose~~  
21 he The state fire marshal or a deputy fire marshal is hereby  
22 authorized to ~~cause subpoenas to be~~ have a subpoena issued  
23 for ~~such persons~~ a person as he shall have has reason to  
24 believe ~~have any has~~ information or knowledge concerning, ~~or~~  
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 there~~ to testify  
 4 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 ~~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, ~~or~~  
 11 ~~any of the provisions of this act, and naming the witness to~~  
 12 be subpoenaed, and said ~~The~~ justice of the peace shall ~~then,~~  
 13 ~~upon the written precept of the state fire marshal or~~  
 14 ~~deputy state fire marshal,~~ issue a subpoena for the witness  
 15 named ~~in said precept,~~ commanding ~~such witness~~ him to be  
 16 ~~and~~ appear before ~~such~~ the justice of the peace at the time  
 17 designated in ~~such~~ the subpoena, to testify concerning ~~any a~~  
 18 violation of ~~the provisions of said laws~~ the laws relating  
 19 to fires. ~~Such subpoenas~~ The subpoena 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. ~~Each~~ The witness shall be

1 sworn to make true answers to all questions touching the  
 2 matters under investigation propounded to him ~~touching the~~  
 3 ~~matters under investigation,~~ and ~~the~~ his testimony of ~~each~~  
 4 ~~witness~~ shall be reduced to writing and be signed by the  
 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  
 8 appearing as a witness ~~as above provided in a proceeding~~  
 9 investigating a violation of the laws relating to fires.  
 10 False swearing in such a ~~matter or proceeding shall be~~ is  
 11 perjury and shall be punished as such. ~~Any disobedience~~  
 12 Disobedience to ~~such a~~ subpoena, ~~or any~~ refusal to be sworn  
 13 as a witness, or to sign the testimony given by ~~such a~~  
 14 witness, or ~~any~~ refusal to answer ~~any a~~ proper question  
 15 propounded to ~~him,~~ shall be a witness is a misdemeanor, and  
 16 ~~any a~~ person convicted thereof shall be ~~punished by a fine~~  
 17 ~~of not fined no more than one hundred dollars, \$100 or by~~  
 18 ~~imprisonment be imprisoned~~ in the county jail for ~~not more~~  
 19 ~~than ninety days any term not to exceed 90 days,~~ or by both  
 20 ~~such fine and imprisonment.~~

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

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

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

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

19 Section 37. Section 82-1229, R.C.M. 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 insurance,~~ attorney general containing a  
 24 detailed statement of his official action and the  
 25 transactions of his department. ~~The commissioner of~~

1 ~~insurance and the attorney general~~ shall, in turn, submit  
 2 ~~said the~~ report to the governor ~~of the state,~~ with such  
 3 recommendations and comments thereon as he ~~may deem~~  
 4 considers 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 following definitions apply:

9 (1) "Department" means the department of health and  
 10 environmental sciences provided for in Title 82A, chapter 6.

11 (2) "Facility" means a hospital, 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  
 17 who is to perform the abortion of such of the following  
 18 information as is reasonably chargeable to the knowledge of  
 19 ~~such the~~ physician in his professional capacity:

20 ~~(i)~~ (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 ~~(ii)~~ (ii) ~~The the~~ physical and psychological effects of  
 24 abortion; and

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

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  
4 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 made to her and that she voluntarily consents to the  
10 abortion.

11 (4) "Abortion" means the performance of, ~~or~~ assistance  
12 or participation in the performance of, or submission to, an  
13 act or operation intended to terminate a pregnancy without  
14 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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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".

Section 3. 27-722. "Or" was added and "enter" was deleted 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.

Section 6. 54-301. "The following definitions apply" 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.

Section 8. 69-1401. "And" was changed to "of" for grammatical reasons.

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

Section 10. 69-1508. "Been" was added for grammatical reasons.

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

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

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

Section 14. 69-1923. "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. 69-1925. The first sentence was deleted as unnecessary and in conflict 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. 69-2111. "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. 69-2701. "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. 69-2702. 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. 69-4428.1. "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. 69-4504. "Who are" was added to subsection (1) for grammatical reasons.

Section 21. 69-4508. "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. 69-5201. "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. 69-5207. "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. 69-5502. "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. 69-6701. "The" was added for grammatical reasons.

Section 26. 69-6704. "The" was added for grammatical reasons.

Section 27. 69-7102. "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. 69-7103. 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. 69-7105. "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. 69-7107. "Or" was changed to "of" in subsection (2) for clarification, for grammatical reasons, and to correct an apparent misprint.

Section 31. 69-7108. 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. 69-7110. "Will" was changed to "shall" in subsection (3) for clarification. "As" was changed to "under" in the last section for clarification.

Section 33. 82-1201. "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. 82-1226. This section was amended to correct certain punctuation problems and to aid recodification.

Section 37. 82-1229. References to "the commissioner of insurance" were changed to "the attorney general" to bring this section into conformity with current law.

Section 38. 94-5-614. "The following definitions apply" was added to the lead-in phrase to correct certain punctuation problems and to aid recodification.

Section 39. Repealer. 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.

Approved by Committee  
on Public Health, Welfare  
& Safety

1                    SENATE    BILL NO.    29  
2    INTRODUCED BY    BLAYLOCK

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 THROUGH 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            "27-706. Detention or embargo of adulterated or  
19    misbranded articles -- condemnation proceedings -- immediate  
20    abatement of nuisances. ~~(a) (1) whenever a duly authorized~~ if  
21    an agent of the department finds or has probable cause to  
22    believe that any food, drug, device, or cosmetic is  
23    adulterated, or so misbranded as to be dangerous or  
24    fraudulent within the meaning of this act, he shall affix to

25    ~~such the~~ the article a tag or other appropriate marking, giving  
there are no changes in SB 29, & will not be re-run.

Please refer to white copy for complete text.    S E C O N D    R E A D I N G

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

9            ~~(b) (2) when if~~ if an article detained or embargoed under  
10    subsection ~~(a) (1) has been is~~ found by ~~such the~~ 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~~ 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.

18            ~~(c) (3)~~ (3) If the court finds that a detained or embargoed  
19    article is adulterated or misbranded, ~~such the~~ the article  
20    shall, after entry of the decree, be destroyed at the  
21    expense of the claimant thereof, under the supervision of  
22    ~~such the~~ 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~~ the article or his agent, ~~provided, that when if~~ if the  
25    adulteration or misbranding can be corrected by proper

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 ~~such the~~ supervision have been paid.

14 ~~(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 ~~contain 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 agent, 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."

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

3 "27-707. Proceedings to be instituted and prosecuted  
 4 without delay -- defendant's right to be heard by  
 5 department. ~~It shall be the duty of each~~ Each state attorney  
 6 or county attorney, to whom the department reports ~~any a~~  
 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  
 12 proceeding, the person against whom ~~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 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 ~~premises 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,

1                         SENATE     BILL NO.    29

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3

4     A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND

5     CLARIFY THE LAWS RELATING TO HEALTH AND SAFETY; AMENDING

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9            ~~(b)(2) When~~ If an article detained or embargoed under

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1 labeling or processing of the article, the court, after  
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 9 shall be paid by claimant. ~~Such~~ The article shall be  
 10 returned to the claimant ~~of the article~~ on the  
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 12 article is no longer in violation of this act, 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~~  
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 21 ~~same~~ article being hereby declared to be a nuisance, the  
 22 department or its authorized agent, shall ~~forthwith~~  
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 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~~  
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 12 proceeding, the person against whom ~~such~~ the proceeding is  
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 22 samples authorized. (1) The department or its authorized  
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Section 1. Section 27-706, R.C.M. 1947, is amended to read as follows:

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

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

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

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 13 expenses of ~~such the~~ supervision have been paid.

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 15 authorized agents ~~shall~~ find in any room, building, vehicle  
 16 of transportation, or other structure, any meat, sea food,  
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 10 Before ~~any a~~ violation of this act is reported to ~~any such a~~  
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 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,

1 ~~or~~ held for introduction into commerce, or to ~~enter~~ any  
2 vehicle being used to transport or hold ~~such~~ the foods,  
3 drugs, devices, or cosmetics in commerce, for the purpose:

4 (a) of inspecting ~~such~~ the factory, warehouse,  
5 establishment, or vehicle to determine if any of the  
6 provisions of this act are being violated, and

7 (b) ~~to secure~~ of securing samples or specimens of any  
8 food, drug, device, or cosmetic after paying or offering to  
9 pay for ~~such~~ 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:

16 "27-805. Penalties for violations. ~~Any~~ A person who  
17 violates ~~any~~ of the provisions of ~~the~~ this act or the  
18 orders, or rules ~~or regulations~~ promulgated by the  
19 department under authority ~~thereof~~, of it shall, upon  
20 conviction, ~~thereof~~ be subjected to fine fined for each ~~and~~  
21 ~~every~~ offense, ~~in a sum not exceeding one hundred dollars or~~  
22 more than ~~{~~\$100~~}~~ or ~~to imprisonment be imprisoned for any~~  
23 term not to exceed ~~thirty~~ ~~{~~30~~}~~ days."

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

1 "50-480.7. Order -- no violation -- abatement. An  
2 operator notified of an order made under ~~section 50-480.2~~  
3 50-480.3 may apply to the division for a hearing or revision  
4 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,  
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."

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

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

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

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

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, or 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.

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

1 lawful order of a practitioner, including the prescribing,  
2 administering, packaging, labeling, or compounding necessary  
3 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.

8 (13) "Drug" means:

9 (a) ~~substances~~ a substance recognized as ~~drugs~~ a drug  
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;

13 (b) ~~substances~~ a substance intended for use in the  
14 diagnosis, cure, mitigation, treatment, or prevention of  
15 disease in man or animals;

16 (c) ~~substances~~ a substance (other than food) intended  
17 to affect the structure or any function of the body of man  
18 or animals; and

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

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

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

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

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

1 (17) "Narcotic drug" means any of the following,  
2 whether produced directly or indirectly by extraction from  
3 substances of vegetable origin, ~~or~~ independently by means of  
4 chemical synthesis, or by a combination of extraction and  
5 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 ~~class (a)~~  
11 17(a) of this section, but not including the isoquinoline  
12 alkaloids of opium;

13 (c) opium poppy and poppy straw; or

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

20 (18) "Opiate" means 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.  
24 It does not include, unless specifically designated as a  
25 dangerous drug under ~~section 54-302 of this act~~, the

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

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

6 (20) "Person" means an individual, corporation,  
7 government or governmental subdivision or agency, business  
8 trust, estate, trust, partnership, ~~or~~ 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:

13 (a) a physician, dentist, veterinarian, scientific  
14 investigator, or other person licensed, registered, or  
15 otherwise permitted to distribute, dispense, or conduct  
16 research with respect to or to administer a dangerous drug  
17 in the course of professional practice or research in this  
18 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.

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), R.C.M., 1947.~~

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

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

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 remain~~ remains in effect  
 7 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  
 11 renewal of registration is refused, if it finds that there  
 12 is an imminent danger to the public health or safety which  
 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 board or dissolved by a court of competent  
 17 jurisdiction."

18 Section B. Section 69-1401, R.C.M. 1947, is amended to  
 19 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 ~~thereon~~ on them  
 25 or passing ~~thereunder~~, under them or by ~~the same~~, them and

1 to prevent ~~the them from~~ falling ~~thereof~~, or ~~of~~ to prevent  
 2 any material that may be used, placed, or deposited ~~thereon~~  
 3 on them from falling."

4 Section 9. Section 69-1504, R.C.M. 1947, is amended to  
 5 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 valves are of suitable relieving  
 10 capacity ratings, sufficient in number and area, and  
 11 properly arranged, and ~~that the safety valves~~ are properly  
 12 adjusted so as not to allow ~~so~~ a greater pressure in ~~the~~  
 13 ~~boilers~~ 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 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



1 valve to allow the boiler to carry greater pressure than is  
2 allowed by the inspection certificate, ~~shall be deemed is~~  
3 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 boilers 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 must be used ~~to determine in determining~~ the safe  
15 working pressure ~~allowed on boiler. Where~~ If the horizontal  
16 lap seams of a boiler are exposed to the fire, a factor of  
17 five must be used ~~to determine in determining~~ the safe  
18 working pressure ~~to be allowed on such boiler. On new~~ stay  
19 bolts, ~~if new, seven thousand five hundred~~ 7,500 pounds  
20 pressure per square inch ~~shall be is~~ allowed. If ~~such the~~  
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, ~~eight thousand~~ 8,000 pounds pressure  
24 per square inch ~~shall be is~~ allowed. On welded braces or  
25 braces with only one ~~seven-foot~~ crowfoot, ~~six thousand~~ 6,000

1 pounds pressure per square inch ~~shall be is~~ allowed. No cast  
2 iron ~~shall may~~ be used in the construction or reinforcements  
3 of ~~any a~~ boiler ~~where if~~ the pressure allowed on ~~said the~~  
4 boiler is more than ~~one hundred~~ 100 pounds per square inch."

5 Section 10. Section 69-1508, R.C.M. 1947, is amended  
6 to read as follows:

7 "69-1508. Licenses required — penalty for operating  
8 without license. No person ~~shall may~~ be granted a license to  
9 operate steam or water boilers and steam machinery under the  
10 provisions of this article, who has not met the  
11 qualifications for licensing, ~~and been~~ found to be competent  
12 by examination to perform the duties of an engineer, and  
13 received a license so to act. ~~Any a~~ person who operates ~~any~~  
14 a boiler or steam engine without first obtaining a license  
15 is guilty of a misdemeanor, and, upon conviction, shall be  
16 ~~punished by a fine of not~~ fined no less than ~~fifty dollars~~  
17 \$50 ~~nor or~~ more than ~~one hundred dollars,~~ \$100 or by  
18 ~~imprisonment~~ be imprisoned in the county jail for ~~not more~~  
19 ~~than sixty~~ any term not to exceed 60 days, or by both ~~such~~  
20 ~~fine and imprisonment."~~

21 Section 11. Section 69-1509, R.C.M. 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

1 specified in the preceding section, ~~must be~~ are divided into  
 2 four classes, namely: first-class engineers, second-class  
 3 engineers, third-class engineers, and low-pressure  
 4 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 schedule:

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~~ steam-driven machinery  
 11 with the exception of traction and hoisting engines.

12 (b) Second-class engineers ~~shall be~~ are licensed to  
 13 operate steam boilers operating not in excess of ~~two-hundred~~  
 14 ~~fifty~~ {250} 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 gauge  
 17 pressure and ~~four-hundred-fifty degrees Fahrenheit~~ {450° F}  
 18 250 degrees F temperature, and ~~steam-driven~~ steam-driven  
 19 machinery not to exceed ~~one-hundred~~ {100} horsepower per  
 20 unit, with the exception of traction and hoisting engines.

21 (c) Third-class engineers ~~shall be~~ are licensed to  
 22 operate steam boilers operating not in excess of ~~one-hundred~~  
 23 ~~{100}~~ pounds per square inch gauge saturated steam pressure  
 24 ~~or and~~ water boilers operating not in excess of ~~one-hundred~~  
 25 ~~sixty~~ {160} pounds per square inch gauge pressure and ~~three~~

1 ~~hundred-fifty degrees Fahrenheit~~ {350° F} 350 degrees F  
 2 temperature.

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 ~~Fahrenheit~~ {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 made: ~~Each applicant for any classification must be~~  
 14 ~~physically and mentally capable of performing the required~~  
 15 ~~duties for the class of engineer's license for which~~  
 16 ~~application is being made.~~

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

1 (b) Applicants An applicant for a third-class  
 2 engineer's license shall must have ~~no less than six~~ at least  
 3 ~~{6}~~ months' 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--boilers~~ in this  
 9 classification ~~shall be granted a third-class engineer's~~  
 10 ~~license.~~

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

13 ~~{1}{i}~~ ~~no less than two~~ 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,  
 16 under an engineer holding a valid second-class or  
 17 first-class license, ~~and~~ successfully pass a written  
 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 boiler ~~or--boilers~~ and ~~steam-driven~~  
 21 steam-driven machinery in this classification ~~shall be~~  
 22 ~~granted a second-class engineer's license; or~~

23 ~~{2}{iii}~~ ~~hold~~ 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

1 ~~steam-driven~~ steam-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 examination prescribed by the division, ~~and has have~~ passed  
 5 his ~~eighteenth~~ ~~{18th}~~ birthday, and ~~is~~ be found to be  
 6 competent to operate a boiler ~~or--boilers~~ and ~~steam-driven~~  
 7 steam-driven machinery in this classification ~~shall be~~  
 8 ~~granted a second-class engineer's license.~~

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

11 ~~{1}{i}~~ ~~no less than three~~ have at least ~~{3}~~ years'  
 12 full-time experience in the ~~actual~~ operation of a boiler and  
 13 ~~steam-driven~~ steam-driven machinery in this classification,  
 14 under an engineer holding a valid first-class license, ~~and~~  
 15 successfully pass a written examination prescribed by the  
 16 division, ~~and has have~~ passed his ~~eighteenth~~ ~~{18th}~~  
 17 birthday, and ~~is~~ be found to be competent to operate a  
 18 boiler ~~or--boilers~~ and ~~steam-driven~~ steam-driven machinery in  
 19 this classification, ~~shall be granted a first-class~~  
 20 ~~engineer's license; or~~

21 ~~{2}{iii}~~ ~~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~~

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

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

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

21 (4)(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~~

1 subsection (3) of this section, successfully ~~pass~~ passing a  
 2 written examination prescribed by the division, and ~~is found~~  
 3 to be competent to operate a boiler ~~or boilers~~ and ~~steam~~  
 4 ~~driven~~ steam-driven machinery in that classification shall  
 5 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 services or the~~  
 10 ~~merchant 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 (2)(c) ~~Applicants with~~ An applicant having training in  
 14 the ~~actual~~ operation of steam or water boilers and steam  
 15 machinery who ~~have~~ has been certified as having  
 16 satisfactorily completed a prescribed training course from a  
 17 recognized vocational-technical training school or center or  
 18 other ~~division-approved~~ division-approved institution or  
 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 ~~six~~ (6) months' experience toward a first,  
 22 second, or third-class engineer's license.

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

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 as a traction~~  
 6 license. ~~Such~~ A traction license ~~shall does~~ not entitle the  
 7 its holder ~~thereof~~ to operate any other class of steam  
 8 machinery ~~specified in the preceding section. Applicants in~~  
 9 applicant for a traction engineer's license ~~shall must~~ have  
 10 ~~no less than six at least~~ (6) months' full-time experience  
 11 in the operation of steam traction engines, ~~and~~ successfully  
 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 ~~granted a traction engineer's license.~~ 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.M. 1947, is amended  
 21 to read as follows:

22 "69-1802. Application of act --- definitions. Sections  
 23 69-1801 through 69-1810, ~~R.C.M. 1947,~~ apply to the ~~following~~  
 24 occupancies defined below:

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

1 a building or structure or any portion thereof by a  
 2 gathering of persons for civic, political, travel,  
 3 religious, social, or recreational purposes, including  
 4 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 (l) lecture halls;
- 17 (m) lodge rooms;
- 18 (n) motion picture theaters;
- 19 (o) museums;
- 20 (p) night clubs;
- 21 (q) opera houses;
- 22 (r) passenger stations;
- 23 (s) pool rooms;
- 24 (t) recreation areas;
- 25 (u) restaurants;

1       (v) skating rinks;

2       (w) television studios;

3       (x) theaters; and

4       (y) taverns.

5       (2) "Business occupancy" means the occupancy or use of

6 a building or structure or any portion thereof for the

7 transaction of business, or the rendering or receiving of

8 professional services, including among others:

9       (a) banks;

10      (b) barber shops;

11      (c) beauty parlors;

12      (d) office buildings;

13      (e) radio stations;

14      (f) telephone exchanges; and

15      (g) television stations.

16      (3) "Educational occupancy" means the occupancy or use

17 of a building or structure or any portion thereof by persons

18 assembled for the purpose of learning or ~~of~~ receiving

19 educational instruction, including among others:

20      (a) academies;

21      (b) colleges;

22      (c) libraries;

23      (d) schools; and

24      (e) universities.

25      (4) "Industrial occupancy" means the occupancy or use

1 of a building or structure or any portion thereof for

2 assembling, fabricating, finishing, manufacturing,

3 packaging, or processing operations, including among

4 others:

5       (a) assembly plants;

6       (b) creameries;

7       (c) electric substations;

8       (d) factories;

9       (e) ice plants;

10      (f) laboratories;

11      (g) laundries;

12      (h) manufacturing plants;

13      (i) mills;

14      (j) power plants;

15      (k) processing plants;

16      (l) pumping stations;

17      (m) repair garages;

18      (n) smoke houses; and

19      (o) ~~work-shops~~ workshops.

20      (5) "Institutional occupancy" means the occupancy or

21 use of a building or structure or any portion thereof by

22 persons harbored or detained to receive medical, charitable,

23 or other care or treatment, or by persons involuntarily

24 detained, including among others:

25      (a) asylums;

- 1        (b) homes for the aged;
- 2        (c) hospitals;
- 3        (d) houses of correction;
- 4        (e) day care facilities;
- 5        (f) infirmaries;
- 6        (g) jails;
- 7        (h) nurseries;
- 8        (i) orphanages;
- 9        (j) nursing homes;
- 10       (k) penal institutions;
- 11       (l) reformatories;
- 12       (m) sanitariums;
- 13       (n) long-term care facilities; and
- 14       (o) boarding homes.
- 15       (6) "Residential occupancy" means the occupancy or use
- 16 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, (but not including
- 21 single-family private houses);
- 22       (a) apartments;
- 23       (b) ~~club-houses~~ clubhouses;
- 24       (c) convents;
- 25       (d) dormitories;

- 1        (e) dwellings;
- 2        (f) hotels;
- 3        (g) motels;
- 4        (h) multifamily houses; and
- 5        (i) lodging houses,
- 6 ~~but not including single-family private houses."~~
- 7        Section 13. Section 69-1808, R.C.M. 1947, is amended
- 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 ~~municipalities~~ 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 municipality, an assembly, educational, or institutional
- 22 occupancy may not be constructed or have alterations made
- 23 costing ~~fifteen hundred dollars~~ ~~(\$1,500)~~ or more unless
- 24 until a permit has been issued for the construction or
- 25 alteration by the county commissioners. A fee of ~~ten dollars~~

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

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

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

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

3 (5) When ~~any a~~ building ~~shall be~~ is found which  
 4 ~~required~~ requires the erection of fire escapes, and upon  
 5 which fire escapes have not been erected according to the  
 6 provisions of this act, or if fire hoses, fire  
 7 extinguishers, fire alarms, or other fire apparatus is found  
 8 to be lacking or defective or not in good working condition,  
 9 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  
 13 the time within which ~~said~~ the fire escapes shall be  
 14 erected, or ~~such~~ the defective conditions be remedied, and  
 15 ~~in no case shall~~ which may not be more than ~~ninety (90)~~  
 16 ~~days,~~ and ~~said~~ The notice ~~shall be deemed to have been~~ is  
 17 served if delivered to the person to be notified, ~~or~~ if left  
 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 term of this act, that~~ are managed and controlled by a  
 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,



1 ~~board of commissioners, or other governing body, to cause~~  
 2 ~~the erection of fire escapes on said buildings, as may be~~  
 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, ~~shall be~~ 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 ~~shall not be construed to be~~ is  
 9 not a breach of any existing lease, contract, or any  
 10 covenant thereof ~~nor~~ 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~~  
 14 of this act, and ~~such 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 marshal. Said 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.M. 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, or  
 25 keep within ~~one~~ 1 mile of the limits of ~~any~~ a city, town, or

1 village any powder, gunpowder, giant or Hercules powder, or  
 2 other highly explosive substance, in ~~greater quantities than~~  
 3 ~~one hundred~~ excess of 100 pounds, or ~~more than one thousand~~  
 4 1,000 giant caps, ~~at any one time,~~ nor shall ~~such~~ may  
 5 explosives be stored, deposited, or kept in any ~~quantities~~  
 6 quantity whatever within ~~one~~ 1 mile of ~~each~~ a city, town, or  
 7 village, except in a magazine constructed as ~~hereinafter~~  
 8 ~~described; provided for in 69-1907, provided, that this~~ This  
 9 section ~~shall not be construed to~~ does not prevent ~~any~~ a  
 10 person, company, or corporation, operating a mine 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,  
 14 ~~provided also, that this~~ This section shall does not prevent  
 15 the keeping of a reasonable amount of gunpowder, not  
 16 exceeding ~~fifty~~ 50 pounds, in a safe place for sale."

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

19 "69-1925. ~~Magazines, etc.,~~ Transportation vehicle to  
 20 bear warning signs. ~~Every storehouse or magazine constructed~~  
 21 ~~as provided in the foregoing section, in which shall be~~  
 22 ~~stored, deposited, or kept any powder, gunpowder, giant or~~  
 23 ~~Hercules powder, giant caps, or other highly explosive~~  
 24 ~~substance, shall at all times have posted above the entrance~~  
 25 ~~thereof a signboard on which shall be painted in conspicuous~~

1 ~~letters not less than four inches in length the words~~  
 2 ~~"explosives dangerous." Every dray, wagon, freight car, or~~  
 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, R.C.M. 1947, is amended  
 9 to read as follows:

10 "69-2111. Adoption of rules by department. (1) The  
 11 department shall adopt by reference nationally recognized  
 12 building codes in whole or in part, amend ~~and~~ or repeal  
 13 rules relating to the construction of all buildings or  
 14 classes of buildings or the installation of equipment in  
 15 those buildings, and may by rule prescribe standards or  
 16 requirements for materials to be used in buildings,  
 17 including provisions dealing with safety, sanitation, and  
 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 hearings relating to the  
 23 administration of this act in accordance with the Montana  
 24 Administrative Procedure Act.

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

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

4 (4) If a hearing has been held by the ~~department of~~  
 5 ~~justice~~ state fire marshal with respect to ~~its~~ his duties  
 6 contained in Title 82, chapter 12, ~~or by~~ the board of  
 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  
 10 proposed rule relating to building and equipment standards  
 11 in their respective fields, a public hearing by the  
 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 marshal 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, ventilation, and air conditioning, or  
 21 ~~the~~ state electrical board which conflicts with the state  
 22 building code, the department after consultation with the  
 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 agencies affected."~~

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

3 "69-2701. Fireworks prohibited and defined for the  
4 purposes of this ~~act~~ chapter. ~~It shall be~~ is unlawful  
5 to possess, sell, transport, or use any fireworks within the  
6 state of Montana except as ~~hereinafter~~ provided in this  
7 chapter.

8 ~~by~~ (2) The term "fireworks" ~~shall mean 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 include~~ includes sky rockets, ~~Roman~~ Roman candles,  
14 ~~Daygo~~ daygo bombs, blank cartridges, toy cannons, toy canes,  
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, sparklers  
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.  
21 ~~Nothing in this law shall be construed as applying This~~  
22 chapter does not apply to toy paper caps containing ~~not more~~  
23 less than ~~twenty-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

1 operation of railroads or other classes of public or private  
2 transportation, ~~not applying~~ to the military or ~~navy~~ naval  
3 forces of the United States or ~~of~~ this state, ~~or~~ to peace  
4 officers, ~~not as prohibiting or to~~ the sale or use of blank  
5 cartridges for ceremonial, ~~or~~ theatrical, or athletic  
6 events.

7 ~~or~~ (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 ~~herewith~~ enumerated in subsection (4) of this  
12 section.

13 (4) Permissible fireworks, ~~shall include dangerous~~  
14 ~~articles and, more specifically, shall~~ excluding sky  
15 rockets, roman candles, daygo bombs, firecrackers, and  
16 bottle rockets, include and be are limited to the following,  
17 ~~but specifically excluding sky rockets, Roman candles and~~  
18 ~~Daygo bombs, firecrackers and bottle rockets:~~

19 ~~(1)~~ (a) Helicopter 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 ~~shall not~~  
25 to exceed three-fourths ~~(3/4)~~ of an inch;

1       ~~(3)~~ (c) ~~Some cone~~ cone fountains, the total pyrotechnic  
2 composition not to exceed ~~fifty~~ (50) grams each in weight;

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

8       ~~(5)~~ (e) ~~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) ~~Sparklers~~ sparklers and dipped sticks, the  
12 total pyrotechnic composition not to exceed ~~one hundred~~  
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) ~~Whistles~~ whistles without report, the total  
17 pyrotechnic composition not to exceed ~~forty~~ (40) grams each  
18 in weight.

19       (5) 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       (6) It ~~shall be~~ is unlawful for ~~any a~~ wholesaler to  
25 sell or offer for sale, within the state of Montana,

1 fireworks except as ~~herein defined~~ enumerated in subsection  
2 (4) of this section. It ~~shall be~~ is lawful for ~~said a~~  
3 wholesaler, however, to transport ~~said~~ fireworks within ~~the~~  
4 ~~state of Montana~~ for sale outside of the state ~~of Montana.~~

5       ~~(7)~~ No person, firm, or corporation ~~shall may~~ offer  
6 fireworks of any kind ~~as defined herein~~ for sale at retail  
7 before ~~the 24th day of June~~ 24 and after ~~the 5th day of July~~  
8 5.

9       ~~(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.M. 1947, is amended  
15 to read as follows:

16       "69-2702. Supervised public display of fireworks.  
17 ~~Except as hereinafter provided, it shall be unlawful for any~~  
18 ~~person, firm, copartnership, association or corporation to~~  
19 ~~possess, offer for sale, expose 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 them,~~ to grant permits  
24 for supervised public displays of fireworks to be held  
25 ~~therein~~ by municipalities, fair associations, amusement

1 parks, and other organizations or groups of individuals.  
 2 ~~Every such~~ Each display shall be handled by a competent  
 3 operator, ~~to 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 such a character, and~~  
 6 ~~so~~ 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 ~~or endanger 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 ~~hereunder 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.M. 1947, is amended  
 20 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.

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~~ precondition to the permit, the applicant  
 5 make a showing of reasonable cause for the disinterment.

6 (3) This ~~act~~ section 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 ~~composition~~. There  
 12 is a county board of health in each county consisting of:

13 (1) the county commissioners, and two ~~(2)~~ members who  
 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 members shall be staggered and shall be for ~~three~~  
 19 ~~(3)~~ years each. ~~County~~ The county commissioners shall  
 20 establish the staggered order of terms and all ~~regulations~~  
 21 rules 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

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

4 (2) Appropriations are made as follows:

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 Title 16, chapter 19, ~~Title 16, R. C. S. 1947.~~  
9 ~~1947.~~

10 (b) City boards are financed by an appropriation from  
11 the general fund of the city after approval of a budget in  
12 the way provided for other city offices and departments  
13 under Title 11, chapter 14, ~~Title 11, R. C. S. 1947.~~

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 cities, may mutually agree upon  
18 the division of expenses. The ~~county 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  
22 Title 16, chapter 19, ~~Title 16, R. C. S. 1947. The city, or~~  
23 cities, Each participating city's part of ~~the~~ total ~~costs~~  
24 expenses is financed by an appropriation from the general  
25 fund of the ~~city, or cities, participating in the~~

1 ~~city-county board~~ after approval of a budget in the way  
2 provided for other city offices and departments under Title  
3 11, chapter 14, ~~Title 11, R. C. S. 1947.~~ All moneys shall be  
4 deposited with the county treasurer who shall disburse them  
5 as county funds, ~~or~~

6 (ii) In first and second class counties, the county  
7 commissioners and governing body of ~~the~~ each participating  
8 ~~city, or cities,~~ may mutually agree upon the division of the  
9 expenses. The ~~county county's~~ 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 ~~cities, participating in the city-county board~~ after  
14 approval of a budget in the way provided for other county  
15 offices and departments under Title 16, chapter 19, ~~Title~~  
16 ~~16, R. C. S. 1947.~~ If the ~~five (5) mill~~ 5-mill levy is not  
17 sufficient to fund the ~~county county's~~ share, ~~the~~ county  
18 commissioners may supplement it with an appropriation from  
19 the county general fund. Each ~~city, or cities,~~ participating  
20 city's part of ~~the~~ total ~~costs~~ expenses is financed by a  
21 special levy of not more than ~~five (5)~~ mills on the taxable  
22 valuation of all property within the incorporated limits of  
23 the ~~city, or cities, 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,

1 ~~Title 41, R.C.M., 1947.~~ All moneys shall be deposited with  
 2 the county treasurer who shall disburse them as county  
 3 funds. The special levies authorized by this subsection are  
 4 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.  
 8 First and second class cities which elect to be included in  
 9 the district contribute to the county in which they are  
 10 located in the way provided for city-county boards under  
 11 subsection (2)(c) of this section. All funds shall be  
 12 deposited with the county treasurer of one ~~(1)~~ of the  
 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 nonofficial  
 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.M. 1947, is amended

1 to read as follows:

2 "69-5201. Definitions. As used in this chapter, unless  
 3 the context clearly indicates otherwise, the following  
 4 definitions apply:

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

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

1 ~~alcoholism~~ and drug dependency centers, and half-way houses.  
 2 A health care facility, in order to be licensed as a  
 3 "~~hospital-related~~ hospital-related facility", shall be in  
 4 compliance with the regulations, for the specific category  
 5 of facility, ~~as promulgated and~~ adopted by the state  
 6 department of health and environmental sciences.

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

18 (4) An "observation bed" is a bed used by a patient  
 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

1 dentistry in ~~the state of~~ Montana, but which does not have  
 2 an observation bed or beds as defined in subsection ~~(2)--(a)~~  
 3 (4).

4 ~~(e)(6)~~ "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 ~~(d)(7)~~ "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 blood 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



1 services ~~twenty-four~~ (24) hours a day.

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 ~~(4)(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 ~~(4)(9)~~ "Infirmiry" means a facility located in a  
16 university, college, government institution, or industry,  
17 for the treatment of the sick or injured.

18 ~~(4)(10)~~ "Infirmiry--A" provides outpatient and  
19 inpatient care.

20 ~~(4)(11)~~ "Infirmiry--B" provides outpatient care only.

21 ~~(4)(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 ~~(8)(17)~~ "Construction" means the erection, expansion,  
11 remodeling, or alteration of ~~any~~ a new or existing facility,  
12 the capital expenditure for which amounts to ~~fifty-thousand~~  
13 ~~dollars~~ ~~(\$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 ~~ten~~  
16 ~~percent~~ ~~(10%)~~ of the licensed capacity of the facility, or  
17 in excess of ~~ten~~ ~~(10)~~ beds, whichever is the lesser, or any  
18 purchase of therapeutic or diagnostic equipment (excluding  
19 replacement of existing equipment) in any ~~twelve-month~~  
20 12-month period, at a cost exceeding ~~two-percent~~ ~~(2%)~~ of the  
21 facility's total operating costs for the most recently  
22 completed fiscal year up to a maximum of ~~one-hundred~~  
23 ~~thousand-dollars~~ ~~(\$100,000)~~, or exceeding ~~ten-thousand~~  
24 ~~dollars~~ ~~(\$10,000)~~, whichever is larger. All exceptions from  
25 this definition must nevertheless be consistent with the

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:

4 "69-5207. Denial of application for long-term care  
5 facility. The department may deny an application for a  
6 long-term care facility license if:

7 (1) it fails to meet minimum standards prescribed  
8 under ~~section~~ 69-5213;

9 (2) the staff is insufficient in number or unqualified  
10 by lack of training or experience;

11 (3) the applicant or any person managing it has been  
12 convicted of a felony and denial of a license on that basis  
13 is qualified by 66-4003 or the applicant otherwise shows  
14 evidence of character traits inimical to the health and  
15 safety of residents; or

16 (4) ~~is~~ the applicant does not have the financial  
17 ability to operate the facility in accordance with law, ~~or~~  
18 rules, or standards adopted by the department."

19 Section 24. Section 69-5502, R.C.M. 1947, is amended  
20 to read as follows:

21 "69-5502. Definitions. As used in this chapter, unless  
22 the context clearly indicates otherwise, the following  
23 definitions apply:

24 (1) "Public swimming pool" means ~~any~~ an artificial  
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 bathing only by the owner, members of his  
5 family, or their invited guests; or

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, partnership,  
11 corporation, organization, the state, or any political  
12 subdivision of the state."

13 Section 25. Section 69-6701, R.C.M. 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 92A, 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—O, A, B, AB) and RH  
21 (Dd) type, approved by the department."

22 Section 26. Section 69-6704, R.C.M. 1947, is amended  
23 to read as follows:

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

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

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

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

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) "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) Any a substance or mixture of substances which:

18 (A) is toxic, i

19 (B) is corrosive, i

20 (C) is an irritant, i

21 (D) is a strong sensitizer, i

22 (E) is flammable or combustible, i 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

1 during or as a proximate result of any customary or  
2 reasonably foreseeable handling or use, including reasonably  
3 foreseeable ingestion by children, i

4 (ii) ~~Any~~ substances which the department by rule finds,  
5 under ~~section~~ 69-7103(1), meet the requirements of  
6 ~~subparagraph (a)(i) of this paragraph~~ subsection (4)(a)(ii)  
7 of this section, i

8 (iii) ~~Any~~ 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, i or

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

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

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

13 (c) The term "hazardous substance" does not include  
 14 ~~any~~ source material, special nuclear material, or by-product  
 15 material as defined in the Atomic Energy Act of 1954, as  
 16 amended, and rules issued pursuant thereto by the atomic  
 17 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~~ a 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

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

5 (ii) produces death within ~~fourteen--(14)~~ days in  
 6 one-half ~~(1/2)~~ or more of a group of ~~ten--(10)~~ or more  
 7 laboratory white rats each weighing between ~~two-hundred~~  
 8 ~~(200)~~ and ~~three-hundred--(300)~~ grams, when inhaled  
 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 dust, if ~~such~~ that concentration is likely to be encountered  
 14 by man when the substance is used in ~~any~~ a reasonably  
 15 foreseeable manner; or

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

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

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 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 flammable" applies to ~~any~~ a  
14 substance which has a flash point at or below ~~twenty degrees~~  
15 ~~(20] Fahrenheit~~ 20 degrees F, 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 ~~twenty degrees~~ ~~(20]~~ 20 degrees to  
19 and including ~~eighty degrees~~ ~~(80] Fahrenheit~~ 80 degrees F,  
20 as determined by the tagliabue open cup tester.

21 ~~(b) (c)~~ "Combustible" applies to ~~any~~ a substance which  
22 has a flash point above ~~eighty degrees~~ ~~(80] Fahrenheit~~ 80  
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~~

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

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

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

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

3 ~~(13) "Immediate container" does not include package~~  
4 ~~liners.~~

5 ~~(14)~~ (13) "Misbranded hazardous substance" means a  
6 hazardous substance (including a toy, or other article  
7 intended for use by children, which is a hazardous  
8 substance, or which bears or contains a hazardous substance  
9 in such a manner as to be susceptible of access by a child  
10 to whom ~~such~~ the toy or other article is entrusted)  
11 intended, or packaged in a form suitable for use by the  
12 public or by children, which ~~substance~~, except as otherwise  
13 provided ~~by or under section 69-7103 under 69-7103(2) or~~  
14 ~~(3)~~, fails to bear a label:

15 (a) which states conspicuously;

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

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

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

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

1 (v) an affirmative statement of the principal hazard  
2 or hazards, such as:

3 (A) "flammable";

4 (B) "combustible";

5 (C) "vapor harmful";

6 (D) "causes burns";

7 (E) "absorbed through skin"; or

8 (F) similar wording descriptive of the hazard;

9 (vi) precautionary measures describing the action to be  
10 followed or avoided, except when modified by a rule of the  
11 department under ~~section 69-7103(2) or (3)~~;

12 (vii) instruction, when necessary or appropriate, for  
13 ~~first aid~~ first aid treatment;

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

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

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

22 (B) if the article is intended for use by children and  
23 is not a banned hazardous substance, adequate directions for  
24 the protection of children from the hazard; and

25 (b) on which ~~any~~ a statement required under

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

6 ~~(15)(14)~~ (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 bears 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 hazardous  
 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 ~~each the~~ the 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 commerce. ~~However, the~~

23 (b) The department by rule shall exempt from clause  
 24 ~~(i) of this paragraph subsection (14)(a)(i) of this section~~  
 25 articles, such as chemical sets, which, by reason of their

1 functional purpose, require the inclusion of the hazardous  
 2 substance involved or necessarily present an electrical,  
 3 mechanical, or thermal hazard, and which bear 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)(iii) 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 69-7103.

13 ~~(16)(15)~~ An 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 ~~(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;

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

1 accessory thereof);  
 2 (c) from points or other protrusions, surfaces, edges,  
 3 openings, or closures;  
 4 (d) from moving parts;  
 5 (e) from lack or insufficiency of controls to reduce  
 6 or stop motion;  
 7 (f) as a result of self-adhering characteristics of  
 8 the article;  
 9 (g) because the article (or ~~any~~ a part or accessory  
 10 thereof) may be aspirated or ingested;  
 11 (h) because of instability;  
 12 (i) because of any other aspect of the article's  
 13 design or manufacture.

14 ~~(18)~~ (17) An article may be determined to present a  
 15 thermal hazard if, in normal use or when subjected to  
 16 reasonably foreseeable damage or abuse, its design or  
 17 manufacture presents an unreasonable risk of personal injury  
 18 or illness because of heat as from heated parts, substances,  
 19 or surfaces.

20 ~~(19)~~ (18) "Court" means, in ~~section 69-7103~~ 69-7103(5),  
 21 the district court for the first judicial district, and, in  
 22 ~~sections 69-7106 and 69-7107~~, the district court is in the  
 23 district ~~in which~~ where the violation occurs."

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

1 "69-7103. Declaration of hazardous substance —  
 2 labeling requirements -- court proceedings. (1) When in the  
 3 judgment of the department such action will promote the  
 4 objectives of this act by avoiding or resolving uncertainty  
 5 as to its application, the department may by rule declare to  
 6 be a hazardous substance, ~~for the purposes of this act, any~~  
 7 a substance or mixture of substances which the department  
 8 finds meets the requirements of ~~subparagraph (a)(i)~~  
 9 subsection (4)(a)(i) of section 69-7102(4) 69-7102.

10 (2) If the department finds that the requirements of  
 11 ~~section 69-7102(4)(a)~~ 69-7102(13)(a) are not adequate for  
 12 the protection of the public health and safety in view of  
 13 the special hazard presented by ~~any particular~~ a 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 hazard  
 24 presented by the substance contained therein, or for other  
 25 good and sufficient reasons, full compliance with the



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 ~~such~~ 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 devised,  
 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.

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

18 (b) If, before or during a proceeding under ~~paragraph~~  
 19 ~~(a) of this subsection~~ subsection (5)(a) of this section,  
 20 the department finds that, because of an electrical,  
 21 mechanical, or thermal hazard, 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 ~~such~~ the  
 24 finding, the toy or other article ~~shall be~~ is a banned  
 25 hazardous substance for purposes of this act until the

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

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

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

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

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

22 Section 29. Section 69-7105, B.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 ~~not~~ no more than five  
 2 ~~hundred dollars~~ ~~(\$500)~~ or be imprisoned for ~~not~~ ~~more~~ ~~than~~  
 3 any term not to exceed ~~ninety~~ ~~(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  
 6 imprisonment for ~~not~~ ~~more~~ ~~than~~ any term not to exceed ~~one~~  
 7 ~~(1)~~ year, or a fine of ~~not~~ no more than ~~three~~ ~~thousand~~  
 8 ~~dollars~~ ~~(\$3,000)~~, or both ~~imprisonment and fine~~.

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

11 (a) for having violated ~~section~~ 69-7104(3), if the  
 12 receipt, delivery, or proffered delivery of the hazardous  
 13 substance was made in good faith, unless he refuses to  
 14 furnish on request of an officer or employee duly designated  
 15 by the department, 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 be~~, pertaining to  
 18 the delivery of the hazardous substance to him; or

19 (b) for having violated ~~section~~ 69-7104(1), if he  
 20 establishes a guarantee or undertaking signed by, and  
 21 containing the name and address of, the person residing in  
 22 the United States from whom he received in good faith the  
 23 hazardous substance, 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~~

1 this act."

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

4 "69-7107. Detainer of misbranded or banned hazardous  
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  
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  
12 substance and has been detained or embargoed, 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) ~~When~~ 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 ~~label~~ an order of  
25 condemnation of ~~such~~ the article. ~~When such~~ If the agent

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

4 (3) If the court finds that a detained or embargoed  
5 article is misbranded or a banned hazardous substance, ~~such~~  
6 the article shall, after entry of the decree, be destroyed  
7 at the expense of the claimant thereof, under supervision of  
8 ~~such~~ the agent, and all court costs and fees and storage and  
9 other proper expenses, ~~shall be~~ 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  
16 order direct that ~~such~~ the article be delivered to the  
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  
22 violation of this act, and that the expenses of ~~such~~ the  
23 supervision have been paid."

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

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

14 Section 32. Section 69-7110, R.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:

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

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

3 ~~(b)(c)~~ to inspect, at reasonable times, ~~and~~ within  
 4 reasonable limits, and in 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

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  
 12 the owner, operator, or agent in charge for ~~such the~~ sample  
 13 and give a receipt describing the samples obtained.

14 (3) The department ~~will~~ shall conduct investigations  
 15 of reported accidental injuries, illnesses, and deaths  
 16 resulting from the use or misuse of all hazardous  
 17 substances, as defined by 69-7102(4)(a)(i), intended or  
 18 suitable for use by the general public ~~as defined under~~  
 19 ~~section 69-7102(4)(a)(i)~~. Investigations ~~will~~ shall  
 20 evaluate the causative hazardous substance and circumstances  
 21 of the accident for enforcement of this act. ~~Where~~ If the  
 22 offending hazardous substance is a pesticide regulated by  
 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

1 the appropriate regulating agency for appropriate action."

2 Section 33. Section 82-1201, B.C.M. 1947, is amended  
3 to read as follows:

4 "~~82-1201. Creation of office of state fire~~ Fire  
5 ~~marshal fire prevention advisory commission~~ bureau.

6 (1) There is ~~an office of state~~ a fire marshal, bureau in  
7 the department of justice which is under the supervision and  
8 control of the ~~commissioner of insurance~~ attorney general.

9 (2) The ~~state chief of the~~ fire marshal ~~bureau~~ shall  
10 be appointed by the ~~commissioner of insurance~~ attorney  
11 general and shall serve at his pleasure. ~~The chief of the~~  
12 fire marshal bureau is the state fire marshal.

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~~

16 (b) have a degree in engineering from a recognized  
17 institution of higher education and ~~two (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 ~~(4) Not later than thirty (30) days after this act~~  
23 ~~becomes effective the commissioner of insurance shall~~  
24 ~~appoint a fire prevention advisory commission composed of~~  
25 ~~the following members:~~

1 ~~(a) One person representing the fire insurance~~  
2 ~~industry whose initial term shall be for one (1) year;~~

3 ~~(b) One person representing industry whose initial~~  
4 ~~term shall be for one (1) year;~~

5 ~~(c) One person representing full-time paid fire~~  
6 ~~departments whose initial term shall be for two (2) years;~~

7 ~~(d) One person representing volunteer fire departments~~  
8 ~~whose initial term shall be for two (2) years;~~

9 ~~(e) One person representing architects of the state~~  
10 ~~whose initial term shall be for three (3) years;~~

11 ~~(f) One person representing the public whose initial~~  
12 ~~term shall be for four (4) years;~~

13 ~~(g) The commissioner of insurance.~~

14 ~~After termination of the initial term, all members~~  
15 ~~shall be appointed for four (4) year terms. Appointed~~  
16 ~~members of the commission shall be reimbursed for seating~~  
17 ~~at the rate of twenty dollars (\$20) per day plus actual~~  
18 ~~expenses including mileage, food, and lodging. The~~  
19 ~~commissioner of insurance shall serve as chairman, and the~~  
20 ~~state fire marshal shall serve as secretary of the~~  
21 ~~commission."~~

22 Section 34. Section 82-1202, R.C.M. 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:

1 ~~(1)(a)~~ make make at least one inspection ~~during every~~  
2 a 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)~~ make make at least one inspection ~~during every~~  
7 a year, of each unit of the Montana university system, and  
8 submit a copy of the report to the ~~executive secretary 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)~~ inspect 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)~~ do do all things necessary and convenient for  
16 carrying into effect the fire prevention laws of this state,  
17 ~~governing this act and~~

18 (2) The state fire marshal may:

19 (a) adopt necessary rules necessary for safeguarding  
20 lives life and property from the hazards of fire and  
21 explosion; ~~and rules shall be adopted as prescribed in the~~  
22 ~~Montana Administrative Procedure Act.~~

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

1 an action to enjoin the use of all or a portion of a  
2 building or facility, or restrain a specific activity, until  
3 there is compliance with the rules.

4 ~~(5) Rules relating to building and equipment standards~~  
5 ~~covered by the state or a municipal building code are~~  
6 ~~effective after approval by the department of administration~~  
7 ~~and filing with the secretary of state.~~

8 (3) Rules shall be adopted as prescribed in the  
9 Montana Administrative Procedure Act."

10 Section 35. Section 82-1215, R.C.M. 1947, is amended  
11 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 shall be is notified by any an officer or other  
16 persons, person or shall have knowledge knows of any a  
17 violation of any of the provisions of this act, or of the  
18 laws of this state relating to fires, it shall be his duty  
19 he shall forthwith immediately and diligently to inquire  
20 into the facts of such the violation, and for that purpose  
21 be The state fire marshal or a deputy fire marshal is hereby  
22 authorized to cause subpoenas to be have a subpoena issued  
23 for such persons a person as he shall have has reason to  
24 believe have any has information or knowledge concerning, or  
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 there~~ to testify  
 4 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 ~~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, ~~or~~  
 11 ~~any of the provisions of this act, and naming the witness to~~  
 12 be subpoenaed, and ~~said The~~ justice of the peace shall ~~then~~  
 13 ~~upon the written precept of the state fire marshal or~~  
 14 ~~deputy state fire marshal,~~ issue a subpoena for the witness  
 15 named ~~in said precept,~~ commanding ~~such witness~~ him to be  
 16 and appear before ~~such the~~ justice of the peace at the time  
 17 designated in ~~such the~~ subpoena, to testify concerning ~~any a~~  
 18 violation of ~~the provisions of said laws the laws relating~~  
 19 to fires. ~~Such subpoenas~~ The subpoena 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. ~~Each The~~ witness shall be

1 sworn to make true answers to all questions touching the  
 2 matters under investigation propounded to him ~~touching the~~  
 3 ~~matters under investigation,~~ and the his testimony of ~~each~~  
 4 witness shall be reduced to writing and be signed by ~~the~~  
 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  
 8 appearing as a witness ~~as above provided in a proceeding~~  
 9 investigating a violation of the laws relating to fires.  
 10 False swearing in such a ~~matter or~~ proceeding ~~shall be~~ is  
 11 perjury and shall be punished as such. ~~Any disobedience~~  
 12 Disobedience to ~~such a~~ subpoena, ~~or any~~ refusal to be sworn  
 13 as a witness, or to sign the testimony given by ~~such a~~  
 14 witness, or ~~any~~ refusal to answer ~~any a~~ proper question  
 15 propounded to ~~him,~~ shall be a witness is a misdemeanor, and  
 16 ~~any a~~ person convicted thereof shall be ~~punished by a fine~~  
 17 ~~of not fined no~~ more than ~~one hundred dollars, \$100~~ or by  
 18 ~~imprisonment~~ be imprisoned in the county jail for ~~not more~~  
 19 ~~than ninety days~~ any term not to exceed 90 days, or by both  
 20 ~~such fine and imprisonment.~~

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

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

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

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

19 Section 37. Section 82-1229, R.C.M. 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 insurance,~~ attorney general containing a  
 24 detailed statement of his official action and the  
 25 transactions of his department; ~~The commissioner of~~

1 ~~insurance and the attorney general~~ shall, in turn, submit  
 2 ~~said the~~ report to the governor ~~of the state,~~ with such  
 3 recommendations and comments thereon as he ~~may deem~~  
 4 considers 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 following definitions apply:

9 (1) "Department" means the department of health and  
 10 environmental sciences provided for in Title 82A, Chapter 6.

11 (2) "Facility" means a hospital, 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  
 17 who is to perform the abortion of such of the following  
 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)(iii)~~ The the physical and psychological effects of  
 24 abortion; and

25 ~~(c)(iii)~~ available available alternatives to abortion,



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  
4 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 made to her and that she voluntarily consents to the  
10 abortion.

11 (4) "Abortion" means the performance of, ~~or~~ assistance  
12 or participation in the performance of, or submission to, an  
13 act or operation intended to terminate a pregnancy without  
14 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-