

Senate BILL NO. 269
Blaylock

INTRODUCED BY _____

BY REQUEST

OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TITLE 69, CHAPTER 49, TO GIVE THE STATE PRIMARY ENFORCEMENT RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH SAFE DRINKING WATER STANDARDS; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADMINISTER AND ENFORCE THE PROVISIONS OF TITLE 69, CHAPTER 49; PROVIDING FOR THE ISSUANCE OF VARIANCES; REQUIRING THAT LABORATORIES PERFORMING ANALYSIS OF PUBLIC WATER SUPPLIES BE LICENSED; PROVIDING FOR THE COLLECTION OF CIVIL PENALTIES; AMENDING SECTIONS 69-4902, 69-4903, 69-4904, AND 69-4907, R.C.M. 1947."

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

Section 1. Section 69-4902, R.C.M. 1947, is amended to read as follows:

"69-4902. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Contamination" means impairment of the quality of

state waters by sewage, or industrial, or other wastes creating a hazard to human health.

(2) "Pollution" means ~~the alteration of any of the properties of state waters which is detrimental to their most beneficial use;~~ contamination or other alteration of the physical, chemical, or biological properties of any state waters which exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A discharge which is authorized under the pollution discharge permit rules of the board is not "pollution" under this chapter.

(3) "Drainage" means rainfall, surface, and subsoil water.

(4) "Sewage" means ~~domestic and manufacturing filth and waste;~~ water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals together with ground water infiltration and surface water present.

(5) "State waters" means any body of water, irrigation

1 system, or drainage system either surface or underground.

2 (6) "Public water supply" means the provision of water
 3 for human consumption from any community well, water hauler
 4 for cisterns, water bottling plant, water dispenser, or
 5 other water supply that serves ~~ten~~ (10) or more families, or
 6 ~~twenty-five~~ (25) or more persons ~~on a regular and continuous~~
 7 ~~basis~~ for at least 60 days out of the calendar year.

8 (7) "Person" means any person individual, firm,
 9 corporation, water or ice company, public institution,
 10 municipality, or other political subdivision of the state.

11 (8) "Department" means the department of health and
 12 environmental sciences provided for in Title 82A, chapter 6.

13 (9) "Board" means the board of health and
 14 environmental sciences provided for in Title 82A, chapter 6.

15 (10) "Industrial waste" means any waste substance from
 16 the processes of business or industry or from the
 17 development of any natural resource together with any sewage
 18 that may be present.

19 (11) "Other waste" means garbage, municipal refuse,
 20 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
 21 offal, night soil, oil, grease, tar, heat, chemicals, dead
 22 animals, sediment, wrecked or discarded equipment,
 23 radioactive materials, solid waste, and all other substances
 24 that may pollute state waters."

25 Section 2. Section 69-4903, R.C.M. 1947, is amended to

1 read as follows:

2 "69-4903. Functions, powers, and duties of the board
 3 ~~of health and environmental sciences. The board of health~~
 4 ~~and environmental sciences shall:~~ (1) Have the board has
 5 general supervision over all state waters which are directly
 6 or indirectly being used by a person for a public water
 7 supply or domestic purposes, or as a source of ice.

8 (2) Adopt The board shall adopt rules and standards
 9 ~~and issue orders to prevent pollution and protect the~~
 10 ~~quality of water and for the collection and analysis of~~
 11 ~~samples of water used for drinking or domestic purposes,~~
 12 ~~giving legal notice of the adoption by publication or~~
 13 ~~posting, and by filing a copy in the office of the clerk of~~
 14 ~~the municipality or county where the rule or standard is~~
 15 ~~effective,~~ concerning:

16 (a) maximum contaminant levels for waters that are or
 17 will be used as a public water supply;

18 (b) fees for services rendered by the department in
 19 analyzing water and conducting inspections;

20 (c) monitoring, record keeping, and reporting by
 21 persons who own or operate a public water supply;

22 (d) requiring public notice to all users of a public
 23 water supply when a person has been granted a variance or is
 24 in violation of this chapter or a rule or order issued
 25 pursuant to this chapter;

- 1 (e) the issuance of licenses by the department to
- 2 laboratories that conduct analysis of public water supplies;
- 3 (f) the siting, construction, operation, and
- 4 modification of a public water supply;
- 5 (g) the collection and analysis of samples of water
- 6 used for drinking or domestic purposes;
- 7 (h) the issuance of variances as authorized by this
- 8 chapter; and
- 9 (i) any other requirement necessary for the protection
- 10 of public health as described in this chapter.

11 (3) The board may issue orders necessary to fully
 12 implement the provisions of this chapter."

13 Section 3. Section 69-4904, R.C.M. 1947, is amended to
 14 read as follows:

15 "69-4904. Powers and duties of the department of
 16 ~~health and environmental sciences~~. The department of ~~health~~
 17 ~~and environmental sciences~~ shall:

- 18 (1) ~~Upon upon its own initiative or~~ complaint to the
- 19 department, or to the mayor or health officer of a
- 20 municipality or to the managing board or officer of a public
- 21 institution, make an investigation of alleged pollution of a
- 22 water supply, and, if required, prohibit the continuance of
- 23 the pollution by ordering removal of the cause of pollution;
- 24 (2) Have ~~have~~ waters examined to determine their
- 25 purity and the possibility that they may endanger public

- 1 health;
- 2 (3) ~~Consult~~ consult and advise authorities of cities
- 3 and towns, and persons having or about to construct systems
- 4 for water supply, drainage, waste water, and sewage as to
- 5 the most appropriate source of water supply and the best
- 6 method of assuring its purity;
- 7 (4) ~~Advise~~ advise persons as to the best method of
- 8 purifying and disposing of their drainage, sewage, or waste
- 9 water with reference to the existing and future needs of
- 10 other persons and to prevent pollution;
- 11 (5) ~~Consult~~ consult with persons engaged in or
- 12 intending to engage in manufacturing or other business whose
- 13 drainage, or sewage may tend to pollute waters as to the
- 14 best method of preventing pollution;
- 15 (6) ~~Fix~~ collect fees for services rendered in
- 16 analyzing water and ~~conducting~~ inspections to cover costs of
- 17 the service and deposit ~~receipts~~ the fees collected in the
- 18 ~~general fund~~ an earmarked revenue fund for use by the
- 19 department;
- 20 (7) ~~Establish~~ establish and maintain experiment
- 21 stations and conduct experiments to study the best methods
- 22 of purifying water, drainage, waste water, sewage, and
- 23 industrial waste to prevent pollution, including
- 24 investigation of methods used in other states;
- 25 (8) Enter ~~enter~~ on premises at reasonable times to

1 determine sources of pollution or danger to water supplies
2 and whether rules and standards of the board are being
3 obeyed;

4 ~~(9) Notify the attorney general of violations of laws~~
5 ~~on pollution of state waters; enforce and administer the~~
6 ~~provisions of this chapter;~~

7 (10) establish a plan for the provision of safe
8 drinking water under emergency circumstances;

9 (11) maintain an inventory of public water supplies and
10 establish a program for conducting sanitary surveys; and

11 (12) enter into agreements with local boards of health
12 wherever appropriate for the performance of surveys and
13 inspections under the provisions of this chapter."

14 Section 4. There is a new R.C.M. section numbered
15 69-4905.1 that reads as follows:

16 69-4905.1. Variance. The department may grant a
17 variance from the requirements of this chapter or the rules
18 adopted under this chapter pursuant to the terms and
19 conditions of the variance rules adopted by the board. A
20 variance granted pursuant to this section shall be
21 accompanied by a compliance plan specifying a time schedule
22 for compliance. A person aggrieved by a decision of the
23 department to grant, deny, revoke, or modify a variance may
24 appeal the department's decision to the board as provided in
25 the Montana Administrative Procedure Act.

1 Section 5. There is a new R.C.M. section numbered
2 69-4905.2 that reads as follows:

3 69-4905.2. Licensing of laboratories. (1) No
4 laboratory analysis of water taken from a public water
5 supply or any report of such an analysis required by this
6 chapter or a rule adopted under this chapter may be accepted
7 by the department or board unless the analysis or report is
8 made by the laboratory of the department or by a laboratory
9 licensed by the department for such purposes. The department
10 shall issue a license to any laboratory that can meet
11 criteria for licensing established in the rules adopted by
12 the board.

13 (2) An application for a license under this section
14 shall be made on forms furnished by the department.

15 (3) A person aggrieved by a decision of the department
16 to grant, deny, or revoke a license may appeal the
17 department's decision to the board as provided in the
18 Montana Administrative Procedure Act.

19 Section 6. Section 69-4907, R.C.M. 1947, is amended to
20 read as follows:

21 *69-4907. Appeal from rule or standard -- injunction
22 to require compliance -- penalties. (1) A person aggrieved
23 by a rule, or standard, or order of the board adopted or
24 issued pursuant to this chapter may appeal to the district
25 court as provided in the Montana Administrative Procedure

1 Act. While the appeal is pending, the rule_s or standard_s or
2 order of the board is in force. The department ~~may request~~
3 ~~an injunction from the district court to require compliance~~
4 ~~with rules and standards.~~

5 (2) The department may seek an injunction from the
6 appropriate district court to require compliance with this
7 chapter or a rule or order issued as authorized by this
8 chapter. The department may also initiate an action to
9 collect a civil penalty as provided in this section.

10 (3) A person who violates this chapter or a rule or
11 order issued as authorized by this chapter shall be subject
12 to a civil penalty of not more than \$5,000. Each day of
13 violation is a separate violation. Penalties collected shall
14 be deposited in the general fund."

-End-

STATE OF MONTANA

REQUEST NO. 531-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, 19 77, there is hereby submitted a Fiscal Note for SB 269 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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

DESCRIPTION OF PROPOSED LEGISLATION:

An act to revise Title 69, Chapter 49, to give the state primary enforcement responsibility under the federal safe drinking water act; authorizing the Board of Health and Environmental Sciences to establish safe drinking water standards; authorizing the Department of Health and Environmental Sciences to administer and enforce the provisions of Title 69, Chapter 49; providing for the issuance of variances; requiring that laboratories performing analysis of public water supplies be licensed; and providing for the collection of civil penalties.

ASSUMPTIONS:

1. Matching requirements for the proposed legislation will remain at 25% state and 75% federal.
2. 1.00 FTE employee, a water systems training officer, would be added to the staff.

FISCAL IMPACT:

	<u>FY78</u>	<u>FY79</u>	<u>Total</u>
Personal services	\$ 9,220	\$9,080	\$18,300
Operating expenses	780	(4,080)	(3,300)
Additional cost of proposed legislation	<u>\$10,000</u>	<u>\$5,000</u>	<u>\$15,000</u>

Of the increase of \$15,000 for the biennium, \$3,750 will come from the state's general fund and \$11,250 from federal sources.

Richard L. Franzen
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-77

Approved by Committee
on Public Health, Welfare
& Safety

Senate BILL NO. *269*
Blaylock

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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TITLE 69,
7 CHAPTER 49, TO GIVE THE STATE PRIMARY ENFORCEMENT
8 RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT;
9 AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
10 TO ESTABLISH SAFE DRINKING WATER STANDARDS; AUTHORIZING THE
11 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO
12 ADMINISTER AND ENFORCE THE PROVISIONS OF TITLE 69, CHAPTER
13 49; PROVIDING FOR THE ISSUANCE OF VARIANCES; REQUIRING THAT
14 LABORATORIES PERFORMING ANALYSIS OF PUBLIC WATER SUPPLIES BE
15 LICENSED; PROVIDING FOR THE COLLECTION OF CIVIL PENALTIES;
16 AMENDING SECTIONS 69-4902, 69-4903, 69-4904, AND 69-4907,
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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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21 read as follows:

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24 definitions apply:

25 (1) "Contamination" means impairment of the quality of

1 state waters by sewage, or industrial, or other wastes
2 creating a hazard to human health.

3 (2) "Pollution" means ~~the alteration of any of the~~
4 ~~properties of state waters which is detrimental to their~~
5 ~~most beneficial use~~ contamination or other alteration of
6 the physical, chemical, or biological properties of any
7 state waters which exceeds that permitted by Montana water
8 quality standards, including but not limited to standards
9 relating to change in temperature, taste, color, turbidity,
10 or odor or the discharge or introduction of any liquid,
11 gaseous, solid, radioactive, or other substance into any
12 state water which will or is likely to create a nuisance or
13 render the waters harmful, detrimental, or injurious to
14 public health, recreation, safety, welfare, livestock, wild
15 animals, birds, fish, or other wildlife. A discharge which
16 is authorized under the pollution discharge permit rules of
17 the board is not "pollution" under this chapter.

18 (3) "Drainage" means rainfall, surface, and subsoil
19 water.

20 (4) "Sewage" means ~~domestic and manufacturing filth~~
21 ~~and waste water-carried waste products from residences,~~
22 ~~public buildings, institutions, or other buildings,~~
23 ~~including discharge from human beings or animals together~~
24 ~~with ground water infiltration and surface water present.~~

25 (5) "State waters" means any body of water, irrigation

1 system, or drainage system either surface or underground.

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 4 for cisterns, water bottling plant, water dispenser, or
 5 other water supply that serves ten (10) or more families, or
 6 twenty-five (25) or more persons on a regular and continuous
 7 basis for at least 60 days out of the calendar year.

8 (7) "Person" means any person individual, firm,
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 10 municipality, or other political subdivision of the state.

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 12 environmental sciences provided for in Title 82A, chapter 6.

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 14 environmental sciences provided for in Title 82A, chapter 6.

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 16 the processes of business or industry or from the
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25 Section 2. Section 69-4903, R.C.M. 1947, is amended to

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 6 or indirectly being used by a person for a public water
 7 supply or domestic purposes, or as a source of ice.

8 (2) ~~Adopt~~ The board shall adopt rules and standards
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 10 ~~quality of water and for the collection and analysis of~~
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 19 analyzing water and conducting inspections;

20 (c) monitoring, record keeping, and reporting by
 21 persons who own or operate a public water supply;

22 (d) requiring public notice to all users of a public
 23 water supply when a person has been granted a variance or is
 24 in violation of this chapter or a rule or order issued
 25 pursuant to this chapter;

1 (e) the issuance of licenses by the department to
2 laboratories that conduct analysis of public water supplies;

3 (f) the siting, construction, operation, and
4 modification of a public water supply;

5 (g) the collection and analysis of samples of water
6 used for drinking or domestic purposes;

7 (h) the issuance of variances as authorized by this
8 chapter; and

9 (i) any other requirement necessary for the protection
10 of public health as described in this chapter.

11 (3) The board may issue orders necessary to fully
12 implement the provisions of this chapter."

13 Section 3. Section 69-4904, R.C.M. 1947, is amended to
14 read as follows:

15 "69-4904. Powers and duties of the department of
16 ~~health-and-environmental-sciences~~. The department of ~~health~~
17 ~~and-environmental-sciences~~ shall:

18 (1) ~~Upon upon its own initiative or~~ complaint to the
19 department or to the mayor or health officer of a
20 municipality or to the managing board or officer of a public
21 institution, make an investigation of alleged pollution of a
22 water supply, and, if required, prohibit the continuance of
23 the pollution by ordering removal of the cause of pollution;

24 (2) ~~Have have~~ waters examined to determine their
25 purity and the possibility that they may endanger public

1 health;

2 (3) ~~Consult~~ consult and advise authorities of cities
3 and towns, and persons having or about to construct systems
4 for water supply, drainage, waste water, and sewage as to
5 the most appropriate source of water supply and the best
6 method of assuring its purity;

7 (4) ~~Advise advise~~ persons as to the best method of
8 purifying and disposing of their drainage, sewage, or waste
9 water with reference to the existing and future needs of
10 other persons and to prevent pollution;

11 (5) ~~Consult~~ consult with persons engaged in or
12 intending to engage in manufacturing or other business whose
13 drainage or sewage may tend to pollute waters as to the
14 best method of preventing pollution;

15 (6) ~~Fix~~ collect fees for services rendered in
16 analyzing water and ~~conducting~~ inspections to cover costs of
17 the service and deposit ~~receipts~~ the fees collected in the
18 ~~general fund~~ an earmarked revenue fund for use by the
19 ~~department~~;

20 (7) ~~Establish~~ establish and maintain experiment
21 stations and conduct experiments to study the best methods
22 of purifying water, drainage, waste water, sewage, and
23 industrial waste to prevent pollution, including
24 investigation of methods used in other states;

25 (8) ~~Enter~~ enter on premises at reasonable times to

1 determine sources of pollution or danger to water supplies
2 and whether rules and standards of the board are being
3 obeyed;

4 ~~(9) Notify the attorney general of violations of laws~~
5 ~~on pollution of state waters; enforce and administer the~~
6 ~~provisions of this chapter;~~

7 ~~(10) establish a plan for the provision of safe~~
8 ~~drinking water under emergency circumstances;~~

9 ~~(11) maintain an inventory of public water supplies and~~
10 ~~establish a program for conducting sanitary surveys; and~~

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14 Section 4. There is a new R.C.M. section numbered
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17 variance from the requirements of this chapter or the rules
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19 conditions of the variance rules adopted by the board. A
20 variance granted pursuant to this section shall be
21 accompanied by a compliance plan specifying a time schedule
22 for compliance. A person aggrieved by a decision of the
23 department to grant, deny, revoke, or modify a variance may
24 appeal the department's decision to the board as provided in
25 the Montana Administrative Procedure Act.

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5 supply or any report of such an analysis required by this
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8 made by the laboratory of the department or by a laboratory
9 licensed by the department for such purposes. The department
10 shall issue a license to any laboratory that can meet
11 criteria for licensing established in the rules adopted by
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1 ~~Act. While the appeal is pending, the rules or standards or~~
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7 chapter or a rule or order issued as authorized by this
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9 collect a civil penalty as provided in this section.

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11 order issued as authorized by this chapter shall be subject
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INTRODUCED BY BLAYLOCK

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THIRD READING

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14 read as follows:

15 "69-4904. Powers and duties of the department of
16 ~~health and environmental sciences~~. The department of ~~health~~
17 ~~and environmental sciences~~ shall:

18 (1) ~~Upon~~ upon its own initiative or complaint to the
19 department, or to the mayor or health officer of a
20 municipality or to the managing board or officer of a public
21 institution, make an investigation of alleged pollution of a
22 water supply, and, if required, prohibit the continuance of
23 the pollution by ordering removal of the cause of pollution;

24 (2) ~~Have~~ have waters examined to determine their
25 purity and the possibility that they may endanger public

1 health;

2 (3) ~~Consult~~ consult and advise authorities of cities
3 and towns, and persons having or about to construct systems
4 for water supply, drainage, waste water, and sewage as to
5 the most appropriate source of water supply and the best
6 method of assuring its purity;

7 (4) ~~Advise~~ advise persons as to the best method of
8 purifying and disposing of their drainage, sewage, or waste
9 water with reference to the existing and future needs of
10 other persons and to prevent pollution;

11 (5) ~~Consult~~ consult with persons engaged in or
12 intending to engage in manufacturing or other business whose
13 drainage, or sewage may tend to pollute waters as to the
14 best method of preventing pollution;

15 (6) ~~It~~ collect fees for services rendered in
16 analyzing water and conducting inspections to cover costs of
17 the service and deposit ~~receipts~~ the fees collected in the
18 ~~general fund an earmarked revenue fund for use by the~~
19 department;

20 (7) ~~Establish~~ establish and maintain experiment
21 stations and conduct experiments to study the best methods
22 of purifying water, drainage, waste water, sewage, and
23 industrial waste to prevent pollution, including
24 investigation of methods used in other states;

25 (8) ~~Enter~~ enter on premises at reasonable times to

1 determine sources of pollution or danger to water supplies
2 and whether rules and standards of the board are being
3 obeyed;

4 ~~(9) Notify the attorney general of violations of laws~~
5 ~~on pollution of state waters, enforce and administer the~~
6 ~~provisions of this chapter;~~

7 (10) establish a plan for the provision of safe
8 drinking water under emergency circumstances;

9 (11) maintain an inventory of public water supplies and
10 establish a program for conducting sanitary surveys; and

11 (12) enter into agreements with local boards of health
12 wherever appropriate for the performance of surveys and
13 inspections under the provisions of this chapter."

14 Section 4. There is a new R.C.M. section numbered
15 69-4905.1 that reads as follows:

16 69-4905.1. Variance. The department may grant a
17 variance from the requirements of this chapter or the rules
18 adopted under this chapter pursuant to the terms and
19 conditions of the variance rules adopted by the board. A
20 variance granted pursuant to this section shall be
21 accompanied by a compliance plan specifying a time schedule
22 for compliance. A person aggrieved by a decision of the
23 department to grant, deny, revoke, or modify a variance may
24 appeal the department's decision to the board as provided in
25 the Montana Administrative Procedure Act.

1 Section 5. There is a new R.C.M. section numbered
2 69-4905.2 that reads as follows:

3 69-4905.2. Licensing of laboratories. (1) No
4 laboratory analysis of water taken from a public water
5 supply or any report of such an analysis required by this
6 chapter or a rule adopted under this chapter may be accepted
7 by the department or board unless the analysis or report is
8 made by the laboratory of the department or by a laboratory
9 licensed by the department for such purposes. The department
10 shall issue a license to any laboratory that can meet
11 criteria for licensing established in the rules adopted by
12 the board.

13 (2) An application for a license under this section
14 shall be made on forms furnished by the department.

15 (3) A person aggrieved by a decision of the department
16 to grant, deny, or revoke a license may appeal the
17 department's decision to the board as provided in the
18 Montana Administrative Procedure Act.

19 Section 6. Section 69-4907, R.C.M. 1947, is amended to
20 read as follows:

21 "69-4907. Appeal from rule or standard -- injunction
22 to require compliance -- penalties. (1) A person aggrieved
23 by a rule, ~~or~~ standard, ~~or order of the board adopted or~~
24 issued pursuant to this chapter may appeal to the district
25 court ~~as provided in the Montana Administrative Procedure~~

1 ~~act.~~ While the appeal is pending, the rule, ~~or~~ standard, or
2 ~~order of the board~~ is in force. ~~The department may request~~
3 ~~an injunction from the district court to require compliance~~
4 ~~with rules and standards.~~

5 (2) The department may seek an injunction from the
6 appropriate district court to require compliance with this
7 chapter or a rule or order issued as authorized by this
8 chapter. The department may also initiate an action to
9 collect a civil penalty as provided in this section.

10 ~~(3) A person who violates this chapter or a rule or~~
11 ~~order issued as authorized by this chapter shall be subject~~
12 ~~to a civil penalty of not more than \$5,000. Each day of~~
13 ~~violation is a separate violation. Penalties collected shall~~
14 ~~be deposited in the general fund. (3) PENALTY FOR~~
15 VIOLATIONS. ANY PERSON VIOLATING THIS ACT OR REGULATIONS
16 PRESCRIBED BY THE DEPARTMENT UNDER THIS ACT, SHALL BE GUILTY
17 OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE FINED NOT
18 LESS THAN \$50 NOR MORE THAN \$500. EACH DAY UPON WHICH A
19 VIOLATION OF THIS ACT OCCURS SHALL BE CONSIDERED A SEPARATE
20 OFFENSE."

-End-

HOUSE OF REPRESENTATIVES, PUBLIC HEALTH, WELFARE AND SAFETY COMM.
Amendments to SENATE BILL 269. March 10, 1977

1. Amend title, line 17.

Following: "1947"

Insert: "; AND REPEALING SECTION 69-4908, R.C.M. 1947"

2. Amend page 9

Following: line 20

Insert: "Section 7. Repealer. Section 69-4908, R.C.M. 1947,
is repealed."

AS AMENDED BE CONCURRED IN

DJ

1 SENATE BILL NO. 269

2 INTRODUCED BY BLAYLOCK

3 BY REQUEST

4 OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TITLE 69,
7 CHAPTER 49, TO GIVE THE STATE PRIMARY ENFORCEMENT
8 RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT;
9 AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
10 TO ESTABLISH SAFE DRINKING WATER STANDARDS; AUTHORIZING THE
11 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO
12 ADMINISTER AND ENFORCE THE PROVISIONS OF TITLE 69, CHAPTER
13 49; PROVIDING FOR THE ISSUANCE OF VARIANCES; REQUIRING THAT
14 LABORATORIES PERFORMING ANALYSIS OF PUBLIC WATER SUPPLIES BE
15 LICENSED; PROVIDING FOR THE COLLECTION OF CIVIL PENALTIES;
16 AMENDING SECTIONS 69-4902, 69-4903, 69-4904, AND 69-4907,
17 R.C.M. 1947; AND REPEALING SECTION 69-4908, R.C.M. 1947."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 69-4902, R.C.M. 1947, is amended to
21 read as follows:

22 "69-4902. Definitions. As used in this chapter, unless
23 the context clearly indicates otherwise, the following
24 definitions apply:

25 (1) "Contamination" means impairment of the quality of

1 state waters by sewage, or industrial, or other wastes
2 creating a hazard to human health.

3 (2) "Pollution" means ~~the alteration of any of the~~
4 ~~properties of state waters which is detrimental to their~~
5 ~~most-beneficial use~~ contamination or other alteration of
6 the physical, chemical, or biological properties of any
7 state waters which exceeds that permitted by Montana water
8 quality standards, including but not limited to standards
9 relating to change in temperature, taste, color, turbidity,
10 or odor or the discharge or introduction of any liquid,
11 gaseous, solid, radioactive, or other substance into any
12 state water which will or is likely to create a nuisance or
13 render the waters harmful, detrimental, or injurious to
14 public health, recreation, safety, welfare, livestock, wild
15 animals, birds, fish, or other wildlife. A discharge which
16 is authorized under the pollution discharge permit rules of
17 the board is not "pollution" under this chapter.

18 (3) "Drainage" means rainfall, surface, and subsoil
19 water.

20 (4) "Sewage" means ~~domestic and manufacturing filth~~
21 ~~and waste water~~ carried waste products from residences,
22 public buildings, institutions, or other buildings,
23 including discharge from human beings or animals together
24 with ground water infiltration and surface water present.

25 (5) "State waters" means any body of water, irrigation

1 system, or drainage system either surface or underground.

2 (6) "Public water supply" means the provision of water
 3 for human consumption from any community well, water hauler
 4 for cisterns, water bottling plant, water dispenser, or
 5 other water supply that serves ~~ten-(10)~~ or more families, or
 6 ~~twenty-five-(25)~~ or more persons ~~on-a-regular-and-continuous~~
 7 ~~basis~~ for at least 60 days out of the calendar year.

8 (7) "Person" means any person individual, firm,
 9 corporation, water or ice company, public institution,
 10 municipality, or other political subdivision of the state.

11 (8) "Department" means the department of health and
 12 environmental sciences provided for in Title 82A, chapter 6.

13 (9) "Board" means the board of health and
 14 environmental sciences provided for in Title 82A, chapter 6.

15 (10) "Industrial waste" means any waste substance from
 16 the processes of business or industry or from the
 17 development of any natural resource together with any sewage
 18 that may be present.

19 (11) "Other waste" means garbage, municipal refuse,
 20 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
 21 offal, night soil, oil, grease, tar, heat, chemicals, dead
 22 animals, sediment, wrecked or discarded equipment,
 23 radioactive materials, solid waste, and all other substances
 24 that may pollute state waters."

25 Section 2. Section 69-4903, R.C.M. 1947, is amended to

1 read as follows:

2 "69-4903. Functions, powers, and duties of the board
 3 ~~of health and environmental sciences. The board of health~~
 4 ~~and environmental sciences shall:~~ (1) Have The board has
 5 general supervision over all state waters which are directly
 6 or indirectly being used by a person for a public water
 7 supply or domestic purposes, or as a source of ice.

8 (2) ~~Adopt The board shall adopt~~ rules and standards
 9 ~~and issue orders to prevent pollution and protect the~~
 10 ~~quality of water and for the collection and analysis of~~
 11 ~~samples of water used for drinking or domestic purposes,~~
 12 ~~giving legal notice of the adoption by publication or~~
 13 ~~posting, and by filing a copy in the office of the clerk of~~
 14 ~~the municipality or county where the rule or standard is~~
 15 ~~effective concerning:~~

16 (a) maximum contaminant levels for waters that are or
 17 will be used as a public water supply;

18 (b) fees for services rendered by the department in
 19 analyzing water and conducting inspections;

20 (c) monitoring, record keeping, and reporting by
 21 persons who own or operate a public water supply;

22 (d) requiring public notice to all users of a public
 23 water supply when a person has been granted a variance or is
 24 in violation of this chapter or a rule or order issued
 25 pursuant to this chapter;

- 1 ~~(e) the issuance of licenses by the department to~~
- 2 ~~laboratories that conduct analysis of public water supplies;~~
- 3 ~~(f) the siting, construction, operation, and~~
- 4 ~~modification of a public water supply;~~
- 5 ~~(g) the collection and analysis of samples of water~~
- 6 ~~used for drinking or domestic purposes;~~
- 7 ~~(h) the issuance of variances as authorized by this~~
- 8 ~~chapter; and~~
- 9 ~~(i) any other requirement necessary for the protection~~
- 10 ~~of public health as described in this chapter.~~
- 11 ~~(3) The board may issue orders necessary to fully~~
- 12 ~~implement the provisions of this chapter."~~

13 Section 3. Section 69-4904, R.C.M. 1947, is amended to
 14 read as follows:

15 "69-4904. Powers and duties of the department of
 16 health ~~and environmental sciences~~. The department of ~~health~~
 17 ~~and environmental sciences~~ shall:

- 18 (1) ~~Upon upon its own initiative or~~ complaint to the
- 19 department, or to the mayor or health officer of a
- 20 municipality or to the managing board or officer of a public
- 21 institution, make an investigation of alleged pollution of a
- 22 water supply, and, if required, prohibit the continuance of
- 23 the pollution by ordering removal of the cause of pollution;
- 24 (2) ~~Have have~~ waters examined to determine their
- 25 purity and the possibility that they may endanger public

- 1 health;
- 2 (3) ~~Consult consult~~ and advise authorities of cities
- 3 and towns, and persons having or about to construct systems
- 4 for water supply, drainage, waste water, and sewage as to
- 5 the most appropriate source of water supply and the best
- 6 method of assuring its purity;
- 7 (4) ~~Advise advise~~ persons as to the best method of
- 8 purifying and disposing of their drainage, sewage, or waste
- 9 water with reference to the existing and future needs of
- 10 other persons and to prevent pollution;
- 11 (5) ~~Consult consult~~ with persons engaged in or
- 12 intending to engage in manufacturing or other business whose
- 13 drainage or sewage may tend to pollute waters as to the
- 14 best method of preventing pollution;
- 15 (6) ~~Fix collect~~ fees for services rendered in
- 16 analyzing water and ~~conducting~~ inspections to cover costs of
- 17 the service and deposit ~~receipts the fees collected~~ in the
- 18 ~~general fund an earmarked revenue fund for use by the~~
- 19 ~~department;~~
- 20 (7) ~~Establish establish~~ and maintain experiment
- 21 stations and conduct experiments to study the best methods
- 22 of purifying water, drainage, waste water, sewage, and
- 23 industrial waste to prevent pollution, including
- 24 investigation of methods used in other states;
- 25 (8) ~~Enter enter~~ on premises at reasonable times to

1 determine sources of pollution or danger to water supplies
2 and whether rules and standards of the board are being
3 obeyed;

4 ~~(9) Notify the attorney general of violations of laws~~
5 ~~on pollution of state waters; enforce and administer the~~
6 ~~provisions of this chapter;~~

7 ~~(10) establish a plan for the provision of safe~~
8 ~~drinking water under emergency circumstances;~~

9 ~~(11) maintain an inventory of public water supplies and~~
10 ~~establish a program for conducting sanitary surveys; and~~

11 ~~(12) enter into agreements with local boards of health~~
12 ~~wherever appropriate for the performance of surveys and~~
13 ~~inspections under the provisions of this chapter."~~

14 Section 4. There is a new R.C.M. section numbered
15 69-4905.1 that reads as follows:

16 69-4905.1. Variance. The department may grant a
17 variance from the requirements of this chapter or the rules
18 adopted under this chapter pursuant to the terms and
19 conditions of the variance rules adopted by the board. A
20 variance granted pursuant to this section shall be
21 accompanied by a compliance plan specifying a time schedule
22 for compliance. A person aggrieved by a decision of the
23 department to grant, deny, revoke, or modify a variance may
24 appeal the department's decision to the board as provided in
25 the Montana Administrative Procedure Act.

1 Section 5. There is a new B.C.M. section numbered
2 69-4905.2 that reads as follows:

3 69-4905.2. Licensing of laboratories. (1) No
4 laboratory analysis of water taken from a public water
5 supply or any report of such an analysis required by this
6 chapter or a rule adopted under this chapter may be accepted
7 by the department or board unless the analysis or report is
8 made by the laboratory of the department or by a laboratory
9 licensed by the department for such purposes. The department
10 shall issue a license to any laboratory that can meet
11 criteria for licensing established in the rules adopted by
12 the board.

13 (2) An application for a license under this section
14 shall be made on forms furnished by the department.

15 (3) A person aggrieved by a decision of the department
16 to grant, deny, or revoke a license may appeal the
17 department's decision to the board as provided in the
18 Montana Administrative Procedure Act.

19 Section 6. Section 69-4907, R.C.M. 1947, is amended to
20 read as follows:

21 "69-4907. Appeal from rule or standard -- injunction
22 to require compliance -- ~~penalties.~~ (1) A person aggrieved
23 by a rule, ~~or standard, or order of the board adopted or~~
24 ~~issued pursuant to this chapter~~ may appeal to the district
25 court ~~as provided in the Montana Administrative Procedure~~

1 ~~Act. While the appeal is pending, the rule, or standard, or~~
2 ~~order of the board is in force. The department may request~~
3 ~~an injunction from the district court to require compliance~~
4 ~~with rules and standards.~~

5 (2) The department may seek an injunction from the
6 appropriate district court to require compliance with this
7 chapter or a rule or order issued as authorized by this
8 chapter. The department may also initiate an action to
9 collect a civil penalty as provided in this section.

10 ~~(3) A person who violates this chapter or a rule or~~
11 ~~order issued as authorized by this chapter shall be subject~~
12 ~~to a civil penalty of not more than \$5,000. Each day of~~
13 ~~violation is a separate violation. Penalties collected shall~~
14 ~~be deposited in the general fund. (3) PENALTY FOR~~
15 VIOLATIONS. ANY PERSON VIOLATING THIS ACT OR REGULATIONS
16 PRESCRIBED BY THE DEPARTMENT UNDER THIS ACT, SHALL BE GUILTY
17 OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE FINED NOT
18 LESS THAN \$50 NOR MORE THAN \$500. EACH DAY UPON WHICH A
19 VIOLATION OF THIS ACT OCCURS SHALL BE CONSIDERED A SEPARATE
20 OFFENSE."

21 SECTION 7. REPEALER. SECTION 69-4908, R.C.M. 1947, IS
22 REPEALED.

-End-

SENATE BILL NO. 269
 INTRODUCED BY BLAYLOCK
 BY REQUEST

OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TITLE 69, CHAPTER 49, TO GIVE THE STATE PRIMARY ENFORCEMENT RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH SAFE DRINKING WATER STANDARDS; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADMINISTER AND ENFORCE THE PROVISIONS OF TITLE 69, CHAPTER 49; PROVIDING FOR THE ISSUANCE OF VARIANCES; REQUIRING THAT LABORATORIES PERFORMING ANALYSIS OF PUBLIC WATER SUPPLIES BE LICENSED; PROVIDING FOR THE COLLECTION OF CIVIL PENALTIES; AMENDING SECTIONS 69-4902, 69-4903, 69-4904, AND 69-4907, R.C.M. 1947; AND REPEALING SECTION 69-4908, R.C.M. 1947."

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

Section 1. Section 69-4902, R.C.M. 1947, is amended to read as follows:

"69-4902. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Contamination" means impairment of the quality of

state waters by sewage, or industrial, or other wastes creating a hazard to human health.

(2) "Pollution" means ~~the alteration of any of the properties of state waters which is detrimental to their most beneficial use; contamination or other alteration of the physical, chemical, or biological properties of any state waters which exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A discharge which is authorized under the pollution discharge permit rules of the board is not "pollution" under this chapter.~~

(3) "Drainage" means rainfall, surface, and subsoil water.

(4) "Sewage" means ~~domestic and manufacturing filth and waste water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals together with ground water infiltration and surface water present.~~

(5) "State waters" means any body of water, irrigation

1 system, or drainage system either surface or underground.

2 (6) "Public water supply" means the provision of water
 3 for human consumption from any community well, water hauler
 4 for cisterns, water bottling plant, water dispenser, or
 5 other water supply that serves ~~ten-(10)~~ or more families, or
 6 ~~twenty-five-(25)~~ or more persons ~~on-a-regular-and-continuous~~
 7 ~~basis~~ for at least 60 days out of the calendar year.

8 (7) "Person" means any person individual, firm,
 9 corporation, water or ice company, public institution,
 10 municipality, or other political subdivision of the state.

11 (8) "Department" means the department of health and
 12 environmental sciences provided for in Title 82A, chapter 6.

13 (9) "Board" means the board of health and
 14 environmental sciences provided for in Title 82A, chapter 6.

15 (10) "Industrial waste" means any waste substance from
 16 the processes of business or industry or from the
 17 development of any natural resource together with any sewage
 18 that may be present.

19 (11) "Other waste" means garbage, municipal refuse,
 20 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
 21 offal, night soil, oil, grease, tar, heat, chemicals, dead
 22 animals, sediment, wrecked or discarded equipment,
 23 radioactive materials, solid waste, and all other substances
 24 that may pollute state waters."

25 Section 2. Section 69-4903, R.C.M. 1947, is amended to

1 read as follows:

2 "69-4903. Functions, powers, and duties of the board
 3 ~~of health and environmental sciences. The board of health~~
 4 ~~and environmental sciences shall:~~ (1) The board has
 5 general supervision over all state waters which are directly
 6 or indirectly being used by a person for a public water
 7 supply or domestic purposes, or as a source of ice.

8 (2) ~~Adopt~~ The board shall adopt rules and standards
 9 ~~and issue orders to prevent pollution and protect the~~
 10 ~~quality of water and for the collection and analysis of~~
 11 ~~samples of water used for drinking or domestic purposes,~~
 12 ~~giving legal notice of the adoption by publication or~~
 13 ~~posting and by filing a copy in the office of the clerk of~~
 14 ~~the municipality or county where the rule or standard is~~
 15 ~~effective~~ concerning:

16 (a) maximum contaminant levels for waters that are or
 17 will be used as a public water supply;

18 (b) fees for services rendered by the department in
 19 analyzing water and conducting inspections;

20 (c) monitoring, record keeping, and reporting by
 21 persons who own or operate a public water supply;

22 (d) requiring public notice to all users of a public
 23 water supply when a person has been granted a variance or is
 24 in violation of this chapter or a rule or order issued
 25 pursuant to this chapter;

1 ~~(e) the issuance of licenses by the department to~~
2 ~~laboratories that conduct analysis of public water supplies;~~

3 ~~(f) the siting, construction, operation, and~~
4 ~~modification of a public water supply;~~

5 ~~(g) the collection and analysis of samples of water~~
6 ~~used for drinking or domestic purposes;~~

7 ~~(h) the issuance of variances as authorized by this~~
8 ~~chapter; and~~

9 ~~(i) any other requirement necessary for the protection~~
10 ~~of public health as described in this chapter.~~

11 ~~(3) The board may issue orders necessary to fully~~
12 ~~implement the provisions of this chapter."~~

13 Section 3. Section 69-4904, R.C.M. 1947, is amended to
14 read as follows:

15 "69-4904. Powers and duties of the department of
16 ~~health--and-environmental-sciences. The department of health~~
17 ~~and-environmental-sciences shall:~~

18 (1) ~~Upon upon its own initiative or~~ complaint to the
19 department, or to the mayor or health officer of a
20 municipality or to the managing board or officer of a public
21 institution, make an investigation of alleged pollution of a
22 water supply, and, if required, prohibit the continuance of
23 the pollution by ordering removal of the cause of pollution;

24 (2) ~~Have~~ have waters examined to determine their
25 purity and the possibility that they may endanger public

1 health;

2 (3) ~~Consult~~ consult and advise authorities of cities
3 and towns, and persons having or about to construct systems
4 for water supply, drainage, waste water, and sewage as to
5 the most appropriate source of water supply and the best
6 method of assuring its purity;

7 (4) ~~Advise~~ advise persons as to the best method of
8 purifying and disposing of their drainage, sewage, or waste
9 water with reference to the existing and future needs of
10 other persons and to prevent pollution;

11 (5) ~~Consult~~ consult with persons engaged in or
12 intending to engage in manufacturing or other business whose
13 drainage, or sewage may tend to pollute waters as to the
14 best method of preventing pollution;

15 (6) ~~Fix~~ collect fees for services rendered in
16 analyzing water and conducting inspections to cover costs of
17 the service and deposit receipts the fees collected in the
18 general fund an earmarked revenue fund for use by the
19 department;

20 (7) ~~Establish~~ establish and maintain experiment
21 stations and conduct experiments to study the best methods
22 of purifying water, drainage, waste water, sewage, and
23 industrial waste to prevent pollution, including
24 investigation of methods used in other states;

25 (8) ~~Enter~~ enter on premises at reasonable times to

1 determine sources of pollution or danger to water supplies
2 and whether rules and standards of the board are being
3 obeyed;

4 ~~(9) Notify the attorney general of violations of laws~~
5 ~~on pollution of state waters; enforce and administer the~~
6 ~~provisions of this chapter;~~

7 (10) establish a plan for the provision of safe
8 drinking water under emergency circumstances;

9 (11) maintain an inventory of public water supplies and
10 establish a program for conducting sanitary surveys; and

11 (12) enter into agreements with local boards of health
12 wherever appropriate for the performance of surveys and
13 inspections under the provisions of this chapter."

14 Section 4. There is a new R.C.M. section numbered
15 69-4905.1 that reads as follows:

16 69-4905.1. Variance. The department may grant a
17 variance from the requirements of this chapter or the rules
18 adopted under this chapter pursuant to the terms and
19 conditions of the variance rules adopted by the board. A
20 variance granted pursuant to this section shall be
21 accompanied by a compliance plan specifying a time schedule
22 for compliance. A person aggrieved by a decision of the
23 department to grant, deny, revoke, or modify a variance may
24 appeal the department's decision to the board as provided in
25 the Montana Administrative Procedure Act.

1 Section 5. There is a new R.C.M. section numbered
2 69-4905.2 that reads as follows:

3 69-4905.2. Licensing of laboratories. (1) No
4 laboratory analysis of water taken from a public water
5 supply or any report of such an analysis required by this
6 chapter or a rule adopted under this chapter may be accepted
7 by the department or board unless the analysis or report is
8 made by the laboratory of the department or by a laboratory
9 licensed by the department for such purposes. The department
10 shall issue a license to any laboratory that can meet
11 criteria for licensing established in the rules adopted by
12 the board.

13 (2) An application for a license under this section
14 shall be made on forms furnished by the department.

15 (3) A person aggrieved by a decision of the department
16 to grant, deny, or revoke a license may appeal the
17 department's decision to the board as provided in the
18 Montana Administrative Procedure Act.

19 Section 6. Section 69-4907, R.C.M. 1947, is amended to
20 read as follows:

21 "69-4907. Appeal from rule or standard -- injunction
22 to require compliance -- penalties. (1) A person aggrieved
23 by a rule, or standard, or order of the board adopted or
24 issued pursuant to this chapter may appeal to the district
25 court ~~as provided in the Montana Administrative Procedure~~

1 ~~Act.~~ While the appeal is pending, the rule~~s~~ or standard~~s~~ or
2 ~~order of the board~~ is in force. The department ~~may request~~
3 ~~an injunction from the district court to require compliance~~
4 ~~with rules and standards.~~

5 ~~(2) The department may seek an injunction from the~~
6 ~~appropriate district court to require compliance with this~~
7 ~~chapter or a rule or order issued as authorized by this~~
8 ~~chapter. The department may also initiate an action to~~
9 ~~collect a civil penalty as provided in this section.~~

10 ~~(3) A person who violates this chapter or a rule or~~
11 ~~order issued as authorized by this chapter shall be subject~~
12 ~~to a civil penalty of not more than \$5,000. Each day of~~
13 ~~violation is a separate violation. Penalties collected shall~~
14 ~~be deposited in the general fund. (3) PENALTY FOR~~
15 ~~VIOLATIONS. ANY PERSON VIOLATING THIS ACT OR REGULATIONS~~
16 ~~PRESCRIBED BY THE DEPARTMENT UNDER OR ANY RULE OR ORDER OF~~
17 ~~THE BOARD OR DEPARTMENT ISSUED UNDER THE PROVISION OF THIS~~
18 ~~ACT, SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION,~~
19 ~~SHALL BE FINED NOT LESS THAN \$50 NOR MORE THAN \$500. EACH~~
20 ~~DAY UPON WHICH A VIOLATION OF THIS ACT OCCURS SHALL BE~~
21 ~~CONSIDERED A SEPARATE DEFENSE."~~

22 ~~SECTION 7. REPEALER. SECTION 69-4908, R.C.M. 1947, IS~~
23 ~~REPEALED.~~

-End-