

HOUSE BILL 109

IN THE HOUSE

January 11, 1979

Introduced and referred to
Committee on Business and
Industry.

January 19, 1979

Committee recommend bill,
as amended, do not pass.

January 22, 1979

Report adopted.

1 House BILL NO. 109
 2 INTRODUCED BY Burnett
 3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND
 4 ENVIRONMENTAL SCIENCES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 AMEND THE LAWS RELATING TO HOTELS, MOTELS, ROOMINGHOUSES,
 8 AND OTHER ESTABLISHMENTS PROVIDING LODGING ACCOMMODATIONS;
 9 AMENDING SECTIONS 50-51-102 THROUGH 50-51-106, 50-51-201,
 10 50-51-202, 50-51-204, 50-51-206, 50-51-208, 50-51-211,
 11 50-51-213, 50-51-301 THROUGH 50-51-303, MCA; AND REPEALING
 12 SECTIONS 50-51-203, 50-51-205, AND 50-51-212, MCA."

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

15 Section 1. Section 50-51-102, MCA, is amended to read:
 16 "50-51-102. Definitions. Unless the context requires
 17 otherwise, in this chapter the following definitions apply:

18 (1) "Board" means board of health and environmental
 19 sciences.

20 (2) "Department" means the department of health and
 21 environmental sciences.

22 (3) "Establishment" means a hotel, motel,
 23 roominghouse, retirement home, tourist home, or other
 24 lodging accommodation.

25 (4) "Hotel" or "motel" includes a building or

1 structure kept, used, maintained as, advertised as, or held
 2 out to the public to be a hotel, motel, inn, motor court,
 3 tourist court, public lodginghouse, or place where sleeping
 4 accommodations are furnished for a fee to transient guests,
 5 with or without meals.

6 (4)(5) "Person" includes means an individual,
 7 partnership, corporation firm, association, county,
 8 municipality, cooperative--group public or private
 9 corporation, subdivision or agency of the state, trust,
 10 estate, or any other legal entity engaged in the business of
 11 operating, owning, or offering the services of a--hotel,
 12 motel--tourist--home--retirement--home--or--roominghouse an
 13 establishment.

14 (5)(6) "Roominghouse" or "retirement home" means
 15 buildings in which separate sleeping rooms are rented
 16 providing sleeping accommodations for three or more persons
 17 on a weekly, semimonthly, monthly, or permanent basis,
 18 whether or not meals or central kitchens are provided but
 19 without separated cooking facilities or kitchens within each
 20 room, and whose occupants do not need professional nursing
 21 services on a full-time basis.

22 (6)(7) "Tourist home" means an establishment or
 23 premises where sleeping accommodations are furnished to
 24 transient guests for hire or rent on a daily or weekly
 25 rental basis in a private home when the accommodations are

1 offered for hire or rent for the use of the traveling
2 public.

3 ~~(7)(B)~~ "Transient guest" means a guest for only a
4 brief stay, such as the traveling public."

5 Section 2. Section 50-51-103, MCA, is amended to read:

6 "50-51-103. Department authorized to adopt rules. ~~The~~
7 ~~department may adopt and enforce rules to preserve the~~
8 ~~public health and safety. These rules shall relate to~~
9 ~~construction, furnishings, housekeeping, personnel, sanitary~~
10 ~~facilities and controls, water supply, sewerage and sewage~~
11 ~~disposal systems, refuse collection and disposal,~~
12 ~~registration and supervision, and fire and life safety code.~~

13 (1) The department is authorized to adopt rules necessary
14 for the administration of this chapter and the protection of
15 public health and safety, including but not limited to rules
16 for:

- 17 (a) preconstruction review of establishments;
- 18 (b) licensing of establishments;
- 19 (c) standards governing the operation of
20 establishments, including those for fixtures, furnishings,
21 sanitary facilities and controls, water supply, sewerage and
22 sewage disposal systems, refuse collection and disposal,
23 housekeeping, fire and life safety code, registration and
24 supervision, and personnel;

25 (d) written agreements for assistance with the local

1 administration of the provisions of this chapter and the
2 rules;

3 (e) inspections and evaluations of establishments and
4 reports to the department on enforcement.

5 (2) Department standards adopted pursuant to
6 subsection (1)(c) shall serve as the minimum establishment
7 standards for Montana."

8 Section 3. Section 50-51-104, MCA, is amended to read:

9 "50-51-104. ~~Cooperative agreements authorized~~
10 Administration of chapter -- agreements for local
11 assistance. The department is hereby authorized to enter
12 into cooperative agreements with any of the state agencies
13 or political subdivisions for the purpose of carrying out
14 the provisions of this chapter or any part thereof. The
15 department may enter into written agreements with other
16 state agencies, political subdivisions of the state, or
17 local boards or departments of health for assistance with
18 the administration of this chapter and department rules, in
19 addition to those inspectional duties required under
20 50-51-301, if the department determines that the proposed
21 program is adequate to effectively and efficiently carry out
22 the provisions of this chapter and the rules."

23 Section 4. Section 50-51-105, MCA, is amended to read:

24 "50-51-105. ~~County attorney to prosecute~~ Prosecution
25 for violations -- injunctions. When the department furnishes

1 evidence to the county attorney of ~~a county in this state,~~
 2 the county attorney shall prosecute any person ~~firm or~~
 3 ~~corporation~~ violating this chapter or a rule effective under
 4 this chapter.

5 (2) The department or, at the request of the
 6 department, the attorney general or the county attorney of
 7 the county in which the establishment is located may sue in
 8 district court to collect the civil penalty provided for in
 9 50-51-106.

10 (3) Notwithstanding any other provision of this
 11 chapter, the department or, at the request of the
 12 department, the attorney general or the county attorney of
 13 the county in which the establishment is located may sue to
 14 enjoin the operation of an establishment that is violating
 15 this chapter, rules adopted pursuant to this chapter, or
 16 orders issued pursuant to this chapter."

17 Section 5. Section 50-51-106, MCA, is amended to read:

18 "50-51-106. Violation ~~of~~ ~~chapter~~ ~~a~~ ~~misdemeanor~~
 19 ~~Penalties.~~ (1) Any person ~~violating~~ who violates any
 20 provision of this chapter ~~or regulation made hereunder~~
 21 ~~except 50-51-107, a rule adopted pursuant to this chapter,~~
 22 ~~or an order issued by the department pursuant to this~~
 23 ~~chapter~~ shall be guilty of a misdemeanor and, upon
 24 conviction thereof, shall be fined not less than \$50 or more
 25 than \$100 for the first offense and not less than \$75 or

1 more than \$200 for the second offense and, for the third and
 2 subsequent offenses, by a fine of not less than \$200 and
 3 imprisonment in the county jail not to exceed 90 days.

4 (2) A person who violates any provision of this
 5 chapter, a rule adopted pursuant to this chapter, or an
 6 order issued by the department pursuant to this chapter and
 7 who fails to submit an acceptable plan of correction within
 8 10 days after notification by the department in writing of
 9 the violation is subject to a civil penalty of not more than
 10 \$50. Each day upon which a violation occurs is a separate
 11 offense."

12 Section 6. Section 50-51-201, MCA, is amended to read:

13 "50-51-201. License required. (1) ~~Each year every~~
 14 ~~person engaged in the business of conducting or operating a~~
 15 ~~hotel, motel, tourist home, retirement home, or roominghouse~~
 16 ~~shall procure a license issued by the department. No person~~
 17 ~~may operate an establishment unless it is licensed by the~~
 18 ~~department.~~

19 (2) A separate license is required for each
 20 establishment ~~however where more than one of each type of~~
 21 ~~establishment is operated on the same premises and under the~~
 22 ~~same management only one license is required which shall~~
 23 ~~enumerate on the certificate thereof the types of~~
 24 ~~establishments licensed."~~

25 Section 7. Section 50-51-202, MCA, is amended to read:

1 ~~"50-51-202. Application for license. Applications--for~~
 2 ~~a--license--shall--be--made--in--writing--to--the--department--on--such~~
 3 ~~forms--and--with--such--pertinent--information--as--it--considers~~
 4 ~~necessary. (1) Application for a license is made by~~
 5 ~~submitting the license application fee and completed~~
 6 ~~application form to the department.~~

7 ~~(2) An application for a license to operate an~~
 8 ~~establishment must be received by the department not less~~
 9 ~~than 30 days prior to the anticipated opening of the~~
 10 ~~establishment or expiration of the existing license.~~
 11 ~~Applications received less than 30 days prior to the~~
 12 ~~anticipated opening are delinquent and shall be assessed a~~
 13 ~~delinquent license application fee."~~

14 Section 8. Section 50-51-204, MCA, is amended to read:

15 ~~"50-51-204. License application fee. There--shall--be~~
 16 ~~paid--to--the--department--with--each--application--for--such~~
 17 ~~license--or--for--renewal--of--such--license--an--annual--license--fee~~
 18 ~~of--\$20. These fees shall be deposited with the state~~
 19 ~~treasury to the credit of the general fund. (1) A person~~
 20 ~~shall submit annually a \$20 license application fee to the~~
 21 ~~department along with a completed application for each~~
 22 ~~establishment.~~

23 ~~(2) Delinquent applications shall be accompanied by a~~
 24 ~~\$10 delinquent application fee in addition to the \$20~~
 25 ~~license application fee.~~

1 ~~(3) License and delinquent application fees collected~~
 2 ~~under this chapter shall be nonrefundable and shall be~~
 3 ~~deposited in the state treasury in an earmarked revenue fund~~
 4 ~~for use by the department in administering this chapter."~~

5 Section 9. Section 50-51-206, MCA, is amended to read:

6 ~~"50-51-206. License not transferable. Such--license~~
 7 ~~shall--not--be--transferable--or--be--applicable--to--any--premises~~
 8 ~~other--than--that--for--which--originally--issued. A license may~~
 9 ~~not be transferred to another person, establishment, or~~
 10 ~~location."~~

11 Section 10. Section 50-51-208, MCA, is amended to
 12 read:

13 ~~"50-51-208. Local board to report number of licensees~~
 14 ~~to department. Before--June--1--of--each Each year, the local~~
 15 ~~board of health shall submit to the department a list of the~~
 16 ~~establishments in--each within its jurisdiction that are~~
 17 ~~licensed pursuant to this part chapter."~~

18 Section 11. Section 50-51-211, MCA, is amended to
 19 read:

20 ~~"50-51-211. Notice and hearing required. (1) A license~~
 21 ~~may not be denied or canceled by the department without~~
 22 ~~delivery to the applicant or licensee of a written statement~~
 23 ~~of the grounds therefor or the charge involved and an~~
 24 ~~opportunity to answer at a hearing before the department to~~
 25 ~~show cause, if any, why the license should not be denied or~~

1 canceled. In such case, the licensee must make a written
2 request to the board for a hearing within 10 days after
3 notice of the grounds or charges has been received.

4 (2) The notice of cancellation may be served
5 personally or by mail on the operator or his agent."

6 Section 12. Section 50-51-213, MCA, is amended to
7 read:

8 "50-51-213. Return of license for ~~alteration or~~
9 ~~destruction to department upon cancellation. On cancellation~~
10 ~~of a license or the right to operate one or more of the~~
11 ~~multiple type establishments under the same license, the~~
12 ~~license certificate shall be returned to the department for~~
13 ~~destruction or deletion of types of establishment as the~~
14 ~~department may direct in its notice of cancellation. The~~
15 operator of an establishment whose license has been canceled
16 by the department shall return the license certificate to
17 the department within 10 days after receipt of notice of
18 cancellation."

19 Section 13. Section 50-51-301, MCA, is amended to
20 read:

21 "50-51-301. Health officers to investigate and make
22 inspections Establishments to be investigated and inspected.

23 (1) The department, through its employees and through local,
24 county, and district health officers, sanitarians, or other
25 authorized representatives, shall make all necessary

1 investigations and inspections for enforcement of this
2 chapter and department rules.

3 (2) Each local, county, or district health officer,
4 sanitarian, or other authorized representative shall make
5 regular inspections as the rules of the department may
6 direct and such special inspections as the department may
7 from time to time direct, and he shall make such reports
8 relative to conditions existing within his district at such
9 times and in such manner as the department may direct."

10 Section 14. Section 50-51-302, MCA, is amended to
11 read:

12 "50-51-302. Health ~~officers to have free access~~
13 Authorized persons to have access to inspect establishments.
14 ~~All persons authorized by this chapter or by regulations~~
15 ~~adopted under this chapter shall have free access at all~~
16 ~~reasonable hours to any of the establishments listed and~~
17 ~~defined in 50-51-102 for the purpose of making inspections.~~

18 (1) A person operating an establishment shall permit state
19 and local health officers, sanitarians, fire marshals,
20 electrical and plumbing inspectors, or other persons
21 authorized by the department to enter and inspect, at any
22 reasonable time, his establishment to determine its
23 compliance with this chapter and the rules.

24 (2) A person may not refuse entry or access to an
25 authorized representative of the department who presents

1 ~~appropriate credentials when the department or its~~
 2 ~~representatives request entry at reasonable times for~~
 3 ~~purposes of inspection.~~

4 ~~(3) The operator of an establishment which has been~~
 5 ~~inspected by the department or its representatives may~~
 6 ~~request and shall then receive a report stating all facts~~
 7 ~~found which relate to its compliance status."~~

8 Section 15. Section 50-51-303, MCA, is amended to
 9 read:

10 "50-51-303. Department to pay local board for
 11 inspections ~~administrative assistance.~~ (1) Before June 30 of
 12 each year, the department shall ~~pay transfer~~ to a local
 13 board of health, as established under 50-2-104, 50-2-106, or
 14 50-2-107, an amount from ~~any general fund appropriation to~~
 15 ~~the department~~ an earmarked fund of the state treasury for
 16 use by the department, which is for the purpose of
 17 ~~inspecting establishments licensed under this chapter~~
 18 ~~assisting the department with the administration of this~~
 19 ~~chapter and department rules provided, however, that there~~
 20 ~~is a functioning local board of health and the local board~~
 21 ~~of health, local health officers, and sanitarians assist in~~
 22 ~~the enforcement of the provisions of this chapter and the~~
 23 ~~rules adopted under it.~~

24 ~~(2) The funds received by the local board of health~~
 25 ~~shall be deposited with the appropriate local fiscal~~

1 ~~authority and shall be in addition to the funds appropriated~~
 2 ~~under 50-2-100 through 50-2-114. Transfer of funds to a~~
 3 ~~local board of health is contingent on the existence of a~~
 4 ~~written agreement between the department and the local board~~
 5 ~~of health pursuant to 50-50-104 and the local board of~~
 6 ~~health fulfilling its duties under that agreement.~~

7 ~~(3) Funds received by a local board of health pursuant~~
 8 ~~to this section shall be deposited with the local fiscal~~
 9 ~~authority, shall be used to support the local administration~~
 10 ~~of this chapter, and shall be in addition to the funds~~
 11 ~~appropriated under 50-2-108 through 50-2-114."~~

12 Section 16. Saving clause. This act does not affect
 13 rights and duties that matured, penalties that were
 14 incurred, or proceedings that were begun before the
 15 effective date of this act.

16 Section 17. Severability. If a part of this act is
 17 invalid, all valid parts that are severable from the invalid
 18 part remain in effect. If a part of this act is invalid in
 19 one or more of its applications, the part remains in effect
 20 in all valid applications that are severable from the
 21 invalid applications.

22 Section 18. Repealer. Sections 50-51-203, 50-51-205,
 23 and 50-51-212, MCA, are repealed.

-End-