

CHAPTER NO. 200

SENATE BILL NO. 109

INTRODUCED BY RYAN, RASMUSSEN

IN THE SENATE

| | |
|-------------------|---|
| January 16, 1979 | Introduced and referred to Committee on Public Health, Welfare, and Safety. |
| January 25, 1979 | Fiscal note requested. |
| January 31, 1979 | Fiscal note returned. |
| February 10, 1979 | Committee recommend bill do pass as amended. Report adopted. |
| February 13, 1979 | Printed and placed on members' desks. |
| February 14, 1979 | Second reading, do pass. |
| February 15, 1979 | Considered correctly engrossed. |
| February 16, 1979 | Third reading, passed. Transmitted to second house. |

IN THE HOUSE

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| February 17, 1979 | Introduced and referred to Committee on Human Services. |
| March 1, 1979 | Committee recommend bill be concurred in as amended. Report adopted. |
| March 2, 1979 | Second reading, concurred in. |
| March 5, 1979 | Third reading, concurred in as amended. |

IN THE SENATE

March 6, 1979

Returned from second house.
Concurred in as amended.

March 7, 1979

Second reading, amendments adopted

March 8, 1979

Third reading, amendments adopted.
Sent to enrolling.

Reported correctly enrolled.

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INTRODUCED BY Senate BILL NO. 109
Ryan Roomussen

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE RELATIONSHIP BETWEEN THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND LOCAL BOARDS OF HEALTH WITH RESPECT TO THE VALIDATION BY LOCAL HEALTH OFFICERS OF CERTAIN LICENSES ISSUED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND TO LIMIT CERTAIN SUPERVISORY FUNCTIONS OF THE DEPARTMENT; AMENDING SECTIONS 50-1-202, 50-2-118, 50-50-201, 50-51-201, AND 50-52-201, MCA; AND REPEALING SECTION 50-2-102, MCA."

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

Section 1. Section 50-2-118, MCA, is amended to read:

"50-2-118. Powers and duties of local health officers.

(1) Local health officers or their authorized representatives shall:

- (a) make inspections for sanitary conditions;
- (b) as directed by the local board, issue written orders for the destruction and removal of filth which might cause disease;
- (c) with written approval of the department, order buildings or facilities where people congregate closed during epidemics;

- (d) on forms provided by the department, report communicable diseases to the department each week;
- (e) before the first day of January, April, July, and October, give a report to the local board of sanitary conditions in the county, city, city-county, or district, together with a detailed account of his activities, on forms and containing information required by the department;
- (f) before the 10th day after the report is given to the local board, send a copy of the report required by subsection (1)(e) of this section to the department;
- (g) as prescribed by rules adopted by the department, establish and maintain quarantines;
- (h) as prescribed by rules adopted by the department, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;
- (i) notify the department of his appointment and changes in membership of the local board;
- (j) file a complaint with the appropriate court if this chapter or rules adopted by the local board or state department under this chapter are violated.
- (k) validate state licenses issued by the department in accordance with chapters 50, 51, and 52 of this title.
- (2) With approval of the department, local health officers may forbid persons to assemble in a place if the assembly endangers public health.

1 (3) A local health officer who is a physician may be
2 placed in charge of a communicable disease hospital, but a
3 local health officer who is a physician is not required to
4 act as a physician to the indigent.

5 (4) A local health officer who is not a physician
6 shall not act as a physician to anyone."

7 Section 2. Section 50-50-201, MCA, is amended to read:

8 "50-50-201. License required. (1) A person operating
9 an establishment shall procure an annual license from the
10 department.

11 (2) A separate license is required for each
12 establishment, but if more than one type of establishment is
13 operated on the same premises and under the same management,
14 only one license is required.

15 (3) Only one license is required for a person owning
16 and operating one or more vending machines.

17 ~~(4) Before a license may be issued by the department
18 it must be validated by the local health officer in the
19 county where the establishment is located."~~

20 Section 3. Section 50-51-201, MCA, is amended to read:

21 "50-51-201. License required. (1) Each year, every
22 person engaged in the business of conducting or operating a
23 hotel, motel, tourist home, retirement home, or roominghouse
24 shall procure a license issued by the department.

25 (2) A separate license is required for each

1 establishment; however, where more than one of each type of
2 establishment is operated on the same premises and under the
3 same management, only one license is required which shall
4 enumerate on the certificate thereof the types of
5 establishments licensed.

6 ~~(3) Before a license may be issued by the department
7 it must be validated by the local health officer in the
8 county where the establishment is located."~~

9 Section 4. Section 50-52-201, MCA, is amended to read:

10 "50-52-201. Application for license. (1) Application
11 for a license is made to the department on forms containing
12 information required by the department.

13 ~~(2) The department may not issue a license unless it
14 has been validated by the local health officer in the county
15 where the establishment is located."~~

16 Section 5. Section 50-1-202, MCA, is amended to read:

17 "50-1-202. General powers and duties. The department
18 shall:

19 (1) study conditions affecting the citizens of the
20 state by making use of birth, death, and sickness records;

21 (2) make investigations, disseminate information, and
22 make recommendations for control of diseases and improvement
23 of public health to persons, groups, or the public;

24 (3) at the request of the governor, administer any
25 federal health program for which responsibilities are

1 delegated to states;

2 (4) inspect and work in conjunction with custodial

3 institutions and Montana university system units

4 periodically as necessary and at other times on request of

5 the governor;

6 (5) after each inspection made under subsection (4) of

7 this section, submit a written report on sanitary conditions

8 to the governor and to the director of institutions or

9 commissioner of higher education and include recommendations

10 for improvement in conditions if necessary;

11 (6) advise state agencies on location, drainage, water

12 supply, disposal of excreta, heating, plumbing, sewer

13 systems, and ventilation of public buildings;

14 (7) organize laboratory services and provide equipment

15 and personnel for those services;

16 (8) develop and administer activities for the

17 protection and improvement of dental health and supervise

18 dentists employed by the state, local boards of health, or

19 schools;

20 (9) develop and administer a program to protect the

21 health of mothers and children;

22 (10) conduct health education programs;

23 ~~(11) supervise school and local public health nurses in~~

24 ~~the performance of their duties;~~

25 ~~(12)(11)~~ consult with the superintendent of public

1 instruction on health measures for schools;

2 ~~(13)(12)~~ develop and administer a program for services

3 to handicapped children including diagnosis, medical,

4 surgical, and corrective treatment, and after-care and

5 related services;

6 ~~(14) supervise local boards of health;~~

7 ~~(15)(13)~~ bring actions in court for the enforcement of

8 the health laws and defend actions brought against the board

9 or department;

10 ~~(16)(14)~~ accept and expend federal funds available for

11 public health services;

12 ~~(17)(15)~~ have the power to use personnel of local

13 departments of health to assist in the administration of

14 laws relating to public health; and

15 ~~(18)(16)~~ adopt rules imposing fees for the tests and

16 services performed by the laboratory of the department. In

17 adopting a rule imposing fees, the department may establish

18 only a fee that will reimburse the department for the costs

19 incurred in performing tests and services. All fees shall be

20 deposited in the general fund."

21 Section 6. Repealer. Section 50-2-102, MCA, is

22 repealed.

-End-

SB 119

STATE OF MONTANA

REQUEST NO. 120-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 109 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.

PURPOSE OF LEGISLATION:

An act to clarify the relationship between the Department of Health and Environmental Sciences and local boards of health with respect to the validation by local health officers of certain licenses issued by the Department of Health and Environmental Sciences and to limit certain supervisory functions of the Department; amending Sections 50-1-202, 50-2-118, 50-50-201, 50-51-201, and 50-52-201, MCA; and repealing Section 50-2-102, MCA.

ASSUMPTIONS:

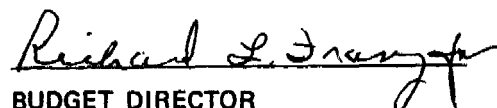
- (1) The licensing procedure will remain substantially the same.
- (2) When the local departments of health receive the packet of license documents for their respective counties, the validation can occur at that time prior to sending on to the proprietor of the establishment.
- (3) Postage costs will not be higher than what is already budgeted for.
- (4) New licenses will not have to be printed to accommodate the new law.

FISCAL IMPACT:

The proposed changes in the law do not appear to add any additional costs to the present process.

ADDITIONAL INFORMATION:

The Department of Health and Environmental Sciences is under the impression that lines 23 and 24 on page 5 have been modified, and we are not addressing this issue in this fiscal note. No fiscal impact is computed on the change suggested for line 14 on page 6.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/30/79

Approved by Committee
on Public Health, Welfare
& Safety

SENATE BILL NO. 109

INTRODUCED BY RYAN, RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE
RELATIONSHIP BETWEEN THE DEPARTMENT OF HEALTH AND
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RESPECT TO THE VALIDATION BY LOCAL HEALTH OFFICERS OF
CERTAIN LICENSES ISSUED BY THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES AND TO LIMIT CERTAIN SUPERVISORY
FUNCTIONS OF THE DEPARTMENT; AMENDING SECTIONS 50-1-202,
50-2-118, 50-50-201, 50-51-201, AND 50-52-201, MCA; AND
REPEALING SECTION 50-2-102, MCA."

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"50-2-118. Powers and duties of local health officers.

(1) Local health officers or their authorized
representatives shall:

(a) make inspections for sanitary conditions;

(b) as directed by the local board, issue written
orders for the destruction and removal of filth which might
cause disease;

(c) with written approval of the department, order
buildings or facilities where people congregate closed
during epidemics;

(d) on forms provided by the department, report
communicable diseases to the department each week;

(e) before the first day of January, April, July, and
October, give a report to the local board of sanitary
conditions in the county, city, city-county, or district,
together with a detailed account of his activities, on forms
and containing information required by the department;

(f) before the 10th day after the report is given to
the local board, send a copy of the report required by
subsection (1)(e) of this section to the department;

(g) as prescribed by rules adopted by the department,
establish and maintain quarantines;

(h) as prescribed by rules adopted by the department,
supervise the disinfection of places at the expense of the
local board when a period of quarantine ends;

(i) notify the department of his appointment and
changes in membership of the local board;

(j) file a complaint with the appropriate court if
this chapter or rules adopted by the local board or state
department under this chapter are violated.

~~(k) validate state licenses issued by the department
in accordance with chapters 50, 51, and 52 of this title.~~

(2) With approval of the department, local health
officers may forbid persons to assemble in a place if the
assembly endangers public health.

1 (3) A local health officer who is a physician may be
2 placed in charge of a communicable disease hospital, but a
3 local health officer who is a physician is not required to
4 act as a physician to the indigent.

5 (4) A local health officer who is not a physician
6 shall not act as a physician to anyone."

7 Section 2. Section 50-50-201, MCA, is amended to read:
8 "50-50-201. License required. (1) A person operating
9 an establishment shall procure an annual license from the
10 department.

11 (2) A separate license is required for each
12 establishment, but if more than one type of establishment is
13 operated on the same premises and under the same management,
14 only one license is required.

15 (3) Only one license is required for a person owning
16 and operating one or more vending machines.

17 ~~(4) Before a license may be issued by the department~~
18 ~~it must be validated by the local health officer, OR IF~~
19 ~~THERE IS NO LOCAL HEALTH OFFICER THE SANITARIAN, in the~~
20 ~~county where the establishment is located."~~

21 Section 3. Section 50-51-201, MCA, is amended to read:
22 "50-51-201. License required. (1) Each year, every
23 person engaged in the business of conducting or operating a
24 hotel, motel, tourist home, retirement home, or roominghouse
25 shall procure a license issued by the department.

1 (2) A separate license is required for each
2 establishment; however, where more than one of each type of
3 establishment is operated on the same premises and under the
4 same management, only one license is required which shall
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6 establishments licensed.

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10 ~~county where the establishment is located."~~

11 Section 4. Section 50-52-201, MCA, is amended to read:
12 "50-52-201. Application for license. (1) Application
13 for a license is made to the department on forms containing
14 information required by the department.

15 ~~(2) The department may not issue a license unless it~~
16 ~~has been validated by the local health officer, OR IF THERE~~
17 ~~IS NO LOCAL HEALTH OFFICER THE SANITARIAN, in the county~~
18 ~~where the establishment is located."~~

19 ~~SECTION 5. THERE IS A NEW MCA SECTION THAT READS:~~

20 Notification of and validation by local health officer.
21 (1) When the department receives an application for a
22 license pursuant to Title 50, chapters 50 through 52, the
23 local health officer in the county where the establishment
24 is located must be notified in writing of the application
25 within 15 days after the department has received the

1 application.

2 (2) If the department decides to issue a license
3 pursuant to the provisions of Title 50, chapters 50, 51, or
4 52, the department shall notify the local health officer in
5 writing.

6 (3) A license issued by the department under Title 50,
7 chapters 50 through 52 is not valid until signed by the
8 local health officer in the county where the establishment
9 is located.

10 (4) The local health officer shall, within 15 days
11 after the department has notified the local health officer
12 of its decision to issue a license under Title 50, chapters
13 50 through 52, make a final decision on whether the license
14 will be validated.

15 (5) Failure of the local health officer to validate
16 the license within 15 days after its receipt is a refusal.

17 SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

18 Refusal by local health officer -- appeal to board. (1)
19 The local health officer may only refuse to validate a
20 license issued under Title 50, chapters 50 through 52, upon
21 a finding that the requirements of these chapters and any
22 rules implementing them are not satisfied. If the local
23 health officer refuses to validate the license, he shall
24 notify the applicant and the department in writing stating
25 his reasons.

1 (2) The applicant or any person aggrieved by the
2 decision of the local health officer not to validate a
3 license may appeal the decision to the local board of health
4 within 30 days after receiving written notice of the local
5 health officer's decision.

6 (3) The hearing before the local board of health shall
7 be held pursuant to the contested case provisions of the
8 Montana Administrative Procedure Act.

9 Section 7. Section 50-1-202, MCA, is amended to read:

10 *50-1-202. General powers and duties. The department
11 shall:

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13 state by making use of birth, death, and sickness records;

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15 make recommendations for control of diseases and improvement
16 of public health to persons, groups, or the public;

17 (3) at the request of the governor, administer any
18 federal health program for which responsibilities are
19 delegated to states;

20 (4) inspect and work in conjunction with custodial
21 institutions and Montana university system units
22 periodically as necessary and at other times on request of
23 the governor;

24 (5) after each inspection made under subsection (4) of
25 this section, submit a written report on sanitary conditions

1 to the governor and to the director of institutions or
2 commissioner of higher education and include recommendations
3 for improvement in conditions if necessary;

4 (6) advise state agencies on location, drainage, water
5 supply, disposal of excreta, heating, plumbing, sewer
6 systems, and ventilation of public buildings;

7 (7) organize laboratory services and provide equipment
8 and personnel for those services;

9 (8) develop and administer activities for the
10 protection and improvement of dental health and supervise
11 dentists employed by the state, local boards of health, or
12 schools;

13 (9) develop and administer a program to protect the
14 health of mothers and children;

15 (10) conduct health education programs;

16 ~~(11) supervise school and local public health nurses in
17 the performance of their duties;~~

18 (11) PROVIDE CONSULTATION TO SCHOOL AND LOCAL COMMUNITY
19 HEALTH NURSES IN THE PERFORMANCE OF THEIR DUTIES;

20 (12) consult with the superintendent of public
21 instruction on health measures for schools;

22 (13) develop and administer a program for
23 services to handicapped children including diagnosis,
24 medical, surgical, and corrective treatment, and after-care
25 and related services;

1 ~~(14) supervise local boards of health;~~

2 (14) PROVIDE CONSULTATION TO LOCAL BOARDS OF HEALTH;

3 ~~(15) bring actions in court for the enforcement~~
4 of the health laws and defend actions brought against the
5 board or department;

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7 for public health services;

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9 departments of health to assist in the administration of
10 laws relating to public health; and

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12 and services performed by the laboratory of the department.
13 In adopting a rule imposing fees, the department may
14 establish only a fee that will reimburse the department for
15 the costs incurred in performing tests and services. All
16 fees shall be deposited in the general fund."

17 SECTION 8. THERE IS A NEW MCA SECTION THAT READS:

18 Codification. Sections 5 and 6 are intended to be
19 codified as an integral part of Title 50 and the provisions
20 contained in Title 50 apply to sections 5 and 6.

21 Section 9. Repealer. Section 50-2-102, MCA, is
22 repealed.

-End-

SENATE BILL NO. 109

INTRODUCED BY RYAN, RASMUSSEN

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7 FUNCTIONS OF THE DEPARTMENT; AMENDING SECTIONS 50-1-202,
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changes in membership of the local board;

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19 The local health officer may only refuse to validate a
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15 (10) conduct health education programs;

16 ~~{11}-supervise-school-and-local-public-health-nurses-in~~
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18 {11} PROVIDE CONSULTATION TO SCHOOL AND LOCAL COMMUNITY
19 HEALTH NURSES IN THE PERFORMANCE OF THEIR DUTIES;

20 ~~{12}{111}{12}~~ consult with the superintendent of public
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9 departments of health to assist in the administration of
10 laws relating to public health; and

11 ~~{19}{116}{18}~~ adopt rules imposing fees for the tests
12 and services performed by the laboratory of the department.
13 In adopting a rule imposing fees, the department may
14 establish only a fee that will reimburse the department for
15 the costs incurred in performing tests and services. All
16 fees shall be deposited in the general fund."

17 SECTION 8. THERE IS A NEW MCA SECTION THAT READS:

18 Codification. Sections 5 and 6 are intended to be
19 codified as an integral part of Title 50 and the provisions
20 contained in Title 50 apply to sections 5 and 6.

21 Section 9. Repealer. Section 50-2-102, MCA, is
22 repealed.

-End-

HOUSE OF REPRESENTATIVES

March 1, 1979

Human Services Committee Amendments to Senate Bill No. 109

AMEND: Third reading copy as follows:

1. Page 4, lines 21 through line 5 on page 5.
Following: line 20
Strike: Subsections (1) and (2) in their entirety
Re-number: subsequent subsections

AS AMENDED BE CONCURRED IN

SENATE BILL NO. 109

INTRODUCED BY RYAN, RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE RELATIONSHIP BETWEEN THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND LOCAL BOARDS OF HEALTH WITH RESPECT TO THE VALIDATION BY LOCAL HEALTH OFFICERS OF CERTAIN LICENSES ISSUED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND TO LIMIT CERTAIN SUPERVISORY FUNCTIONS OF THE DEPARTMENT; AMENDING SECTIONS 50-1-202, 50-2-118, 50-50-201, 50-51-201, AND 50-52-201, MCA; AND REPEALING SECTION 50-2-102, MCA."

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

Section 1. Section 50-2-118, MCA, is amended to read:

"50-2-118. Powers and duties of local health officers.

(1) Local health officers or their authorized representatives shall:

(a) make inspections for sanitary conditions;

(b) as directed by the local board, issue written orders for the destruction and removal of filth which might cause disease;

(c) with written approval of the department, order buildings or facilities where people congregate closed during epidemics;

(d) on forms provided by the department, report communicable diseases to the department each week;

(e) before the first day of January, April, July, and October, give a report to the local board of sanitary conditions in the county, city, city-county, or district, together with a detailed account of his activities, on forms and containing information required by the department;

(f) before the 10th day after the report is given to the local board, send a copy of the report required by subsection (1)(e) of this section to the department;

(g) as prescribed by rules adopted by the department, establish and maintain quarantines;

(h) as prescribed by rules adopted by the department, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;

(i) notify the department of his appointment and changes in membership of the local board;

(j) file a complaint with the appropriate court if this chapter or rules adopted by the local board or state department under this chapter are violated.

(k) validate state licenses issued by the department in accordance with chapters 50, 51, and 52 of this title.

(2) With approval of the department, local health officers may forbid persons to assemble in a place if the assembly endangers public health.

1 (3) A local health officer who is a physician may be
2 placed in charge of a communicable disease hospital, but a
3 local health officer who is a physician is not required to
4 act as a physician to the indigent.

5 (4) A local health officer who is not a physician
6 shall not act as a physician to anyone."

7 Section 2. Section 50-50-201, MCA, is amended to read:

8 "50-50-201. License required. (1) A person operating
9 an establishment shall procure an annual license from the
10 department.

11 (2) A separate license is required for each
12 establishment, but if more than one type of establishment is
13 operated on the same premises and under the same management,
14 only one license is required.

15 (3) Only one license is required for a person owning
16 and operating one or more vending machines.

17 ~~(4) Before a license may be issued by the department~~
18 ~~it must be validated by the local health officer, OR IF~~
19 ~~THERE IS NO LOCAL HEALTH OFFICER THE SANITARIAN, in the~~
20 ~~county where the establishment is located."~~

21 Section 3. Section 50-51-201, MCA, is amended to read:

22 "50-51-201. License required. (1) Each year, every
23 person engaged in the business of conducting or operating a
24 hotel, motel, tourist home, retirement home, or roominghouse
25 shall procure a license issued by the department.

1 (2) A separate license is required for each
2 establishment; however, where more than one of each type of
3 establishment is operated on the same premises and under the
4 same management, only one license is required which shall
5 enumerate on the certificate thereof the types of
6 establishments licensed.

7 ~~(1) Before a license may be issued by the department~~
8 ~~it must be validated by the local health officer, OR IF~~
9 ~~THERE IS NO LOCAL HEALTH OFFICER THE SANITARIAN, in the~~
10 ~~county where the establishment is located."~~

11 Section 4. Section 50-52-201, MCA, is amended to read:

12 "50-52-201. Application for license. (1) Application
13 for a license is made to the department on forms containing
14 information required by the department.

15 ~~(2) The department may not issue a license unless it~~
16 ~~has been validated by the local health officer, OR IF THERE~~
17 ~~IS NO LOCAL HEALTH OFFICER THE SANITARIAN, in the county~~
18 ~~where the establishment is located."~~

19 SECTION 5. THERE IS A NEW MCA SECTION THAT READS:

20 Notification of and validation by local health officer.

21 ~~(1) When the department receives an application for a~~
22 ~~license pursuant to title 50, chapters 50 through 52, the~~
23 ~~local health officer in the county where the establishment~~
24 ~~is located must be notified in writing of the application~~
25 ~~within 15 days after the department has received the~~

1 application.

2 ~~{2}--if--the--department--decides--to--issue--a--license~~
 3 ~~pursuant-to-the-provisions-of-title-50-chapters-50-51--or~~
 4 ~~52--the-department-shall-notify-the-local-health-officer-in~~
 5 ~~writing.~~

6 {3}{1} A license issued by the department under Title
 7 50, chapters 50 through 52 is not valid until signed by the
 8 local health officer in the county where the establishment
 9 is located.

10 {4}{2} The local health officer shall, within 15 days
 11 after the department has notified the local health officer
 12 of its decision to issue a license under Title 50, chapters
 13 50 through 52, make a final decision on whether the license
 14 will be validated.

15 {5}{3} Failure of the local health officer to validate
 16 the license within 15 days after its receipt is a refusal.

17 SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

18 Refusal by local health officer -- appeal to board. (1)
 19 The local health officer may only refuse to validate a
 20 license issued under Title 50, chapters 50 through 52, upon
 21 a finding that the requirements of these chapters and any
 22 rules implementing them are not satisfied. If the local
 23 health officer refuses to validate the license, he shall
 24 notify the applicant and the department in writing stating
 25 his reasons.

1 (2) The applicant or any person aggrieved by the
 2 decision of the local health officer not to validate a
 3 license may appeal the decision to the local board of health
 4 within 30 days after receiving written notice of the local
 5 health officer's decision.

6 (3) The hearing before the local board of health shall
 7 be held pursuant to the contested case provisions of the
 8 Montana Administrative Procedure Act.

9 Section 7. Section 50-1-202, MCA, is amended to read:
 10 "50-1-202. General powers and duties. The department
 11 shall:

12 (1) study conditions affecting the citizens of the
 13 state by making use of birth, death, and sickness records;

14 (2) make investigations, disseminate information, and
 15 make recommendations for control of diseases and improvement
 16 of public health to persons, groups, or the public;

17 (3) at the request of the governor, administer any
 18 federal health program for which responsibilities are
 19 delegated to states;

20 (4) inspect and work in conjunction with custodial
 21 institutions and Montana university system units
 22 periodically as necessary and at other times on request of
 23 the governor;

24 (5) after each inspection made under subsection (4) of
 25 this section, submit a written report on sanitary conditions

1 to the governor and to the director of institutions or
2 commissioner of higher education and include recommendations
3 for improvement in conditions if necessary;

4 (6) advise state agencies on location, drainage, water
5 supply, disposal of excreta, heating, plumbing, sewer
6 systems, and ventilation of public buildings;

7 (7) organize laboratory services and provide equipment
8 and personnel for those services;

9 (8) develop and administer activities for the
10 protection and improvement of dental health and supervise
11 dentists employed by the state, local boards of health, or
12 schools;

13 (9) develop and administer a program to protect the
14 health of mothers and children;

15 (10) conduct health education programs;

16 ~~(11) supervise school and local public health nurses in
17 the performance of their duties;~~

18 (11) PROVIDE CONSULTATION TO SCHOOL AND LOCAL COMMUNITY
19 HEALTH NURSES IN THE PERFORMANCE OF THEIR DUTIES;

20 ~~(12) consult with the superintendent of public~~
21 ~~instruction on health measures for schools;~~

22 ~~(13) develop and administer a program for~~
23 ~~services to handicapped children including diagnosis,~~
24 ~~medical, surgical, and corrective treatment, and after-care~~
25 ~~and related services;~~

1 ~~(14) supervise local boards of health;~~

2 (14) PROVIDE CONSULTATION TO LOCAL BOARDS OF HEALTH;

3 ~~(15) bring actions in court for the enforcement~~
4 ~~of the health laws and defend actions brought against the~~
5 ~~board or department;~~

6 ~~(16) accept and expend federal funds available~~
7 ~~for public health services;~~

8 ~~(17) have the power to use personnel of local~~
9 ~~departments of health to assist in the administration of~~
10 ~~laws relating to public health; and~~

11 ~~(18) adopt rules imposing fees for the tests~~
12 ~~and services performed by the laboratory of the department.~~
13 ~~In adopting a rule imposing fees, the department may~~
14 ~~establish only a fee that will reimburse the department for~~
15 ~~the costs incurred in performing tests and services. All~~
16 ~~fees shall be deposited in the general fund."~~

17 SECTION 8. CODIFICATION. SECTIONS 5 AND 6 ARE
18 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 50 AND
19 THE PROVISIONS CONTAINED IN TITLE 50 APPLY TO SECTIONS 5 AND

20 ~~6.~~

21 ~~Section 9. Repealer. Section 50-2-102, MCA, is~~
22 ~~repealed.~~

-End-