

SENATE BILL NO. 407

INTRODUCED BY S. BROWN, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

February 9, 1981	Introduced and referred to Committee on Judiciary.
February 14, 1981	Committee recommend bill do pass. Report adopted.
February 16, 1981	Statement of intent attached. Bill printed and placed on members' desks.
February 18, 1981	Second reading, do pass.
February 19, 1981	Correctly engrossed.
February 20, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

February 21, 1981	Introduced and referred to Committee on State Administration.
March 12, 1981	Committee recommend bill be concurred in. Report adopted.
March 14, 1981	Motion pass consideration.
March 21, 1981	Second reading, concurred in.
March 24, 1981	Third reading, concurred in. Ayes, 91; Noes, 7.

IN THE SENATE

March 25, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
----------------	---

1 *Amended* BILL NO. *407*
 2 INTRODUCED BY *STEVE BROWN*
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFY THE
 6 DISCIPLINARY AUTHORITY OF LICENSING BOARDS IN THE DEPARTMENT
 7 OF PROFESSIONAL AND OCCUPATIONAL LICENSING."

8
 9 WHEREAS, during its sunset review of licensing boards,
 10 the Legislative Audit Committee noted that disciplinary
 11 authority of some boards over licensees is not specified in
 12 the law and that consequently some boards are hesitant to
 13 take disciplinary action against licensees.

14 THEREFORE, it is the intent of this act to specify the
 15 disciplinary authority of the boards allocated to the
 16 Department of Professional and Occupational Licensing.

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Disciplinary authority of boards --
 20 injunctions. (1) Each licensing board allocated to the
 21 department has the authority, in addition to any other
 22 penalty or disciplinary action provided by law, to adopt
 23 rules specifying grounds for disciplinary action and rules
 24 providing for:

25 (a) revocation of a license;

1 (b) suspension of its judgment of revocation on terms
 2 and conditions determined by the board;

3 (c) suspension of the right to practice for a period
 4 not exceeding 1 year;

5 (d) placing a licensee on probation;

6 (e) reprimand or censure of a licensee; or

7 (f) taking any other action in relation to
 8 disciplining a licensee as the board in its discretion
 9 considers proper.

10 (2) Any disciplinary action by a board shall be
 11 conducted as a contested case hearing under the provisions
 12 of the Montana Administrative Procedure Act.

13 (3) Notwithstanding any other provision of law, a
 14 board may maintain an action to enjoin a person from
 15 engaging in the practice of the occupation or profession
 16 regulated by the board until a license to practice is
 17 procured. A person who has been enjoined and who violates
 18 the injunction is punishable for contempt of court.

19 Section 2. Codification instruction. Section 1 is
 20 intended to be codified as an integral part of Title 37,
 21 chapter 1, part 1.

-End-

Approved by Committee
on Judiciary

1 *Sen. Steve Brown* BILL NO. *407*
2 INTRODUCED BY *STEVE BROWN*
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFY THE
6 DISCIPLINARY AUTHORITY OF LICENSING BOARDS IN THE DEPARTMENT
7 OF PROFESSIONAL AND OCCUPATIONAL LICENSING."

8
9 WHEREAS, during its sunset review of licensing boards,
10 the Legislative Audit Committee noted that disciplinary
11 authority of some boards over licensees is not specified in
12 the law and that consequently some boards are hesitant to
13 take disciplinary action against licensees.

14 THEREFORE, it is the intent of this act to specify the
15 disciplinary authority of the boards allocated to the
16 Department of Professional and Occupational Licensing.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Disciplinary authority of boards --
20 injunctions. (1) Each licensing board allocated to the
21 department has the authority, in addition to any other
22 penalty or disciplinary action provided by law, to adopt
23 rules specifying grounds for disciplinary action and rules
24 providing for:

25 (a) revocation of a license;

1 (b) suspension of its judgment of revocation on terms
2 and conditions determined by the board;

3 (c) suspension of the right to practice for a period
4 not exceeding 1 year;

5 (d) placing a licensee on probation;

6 (e) reprimand or censure of a licensee; or

7 (f) taking any other action in relation to
8 disciplining a licensee as the board in its discretion
9 considers proper.

10 (2) Any disciplinary action by a board shall be
11 conducted as a contested case hearing under the provisions
12 of the Montana Administrative Procedure Act.

13 (3) Notwithstanding any other provision of law, a
14 board may maintain an action to enjoin a person from
15 engaging in the practice of the occupation or profession
16 regulated by the board until a license to practice is
17 procured. A person who has been enjoined and who violates
18 the injunction is punishable for contempt of court.

19 Section 2. Codification instruction. Section 1 is
20 intended to be codified as an integral part of Title 37,
21 chapter 1, part 1.

-End-

SB 407

1 STATEMENT OF INTENT

2 SENATE BILL 407

3 Senate Judiciary Committee

4

5 SB 407 requires a statement of intent because it grants
6 each licensing board allocated to the Department of
7 Professional and Occupational Licensing the authority to
8 adopt specifying grounds for disciplinary action and the
9 type of action that may be taken.

10 Each board adopting new substantive or procedural rules
11 under SB 407 is to specify both the grounds upon which each
12 type of disciplinary action may be taken, and the procedure
13 to be used for each action. Each board using a disciplinary
14 action not specified in subsection (1)(a) through (e) but
15 considered proper under (1)(f) must also state in the rule
16 the grounds upon which disciplinary action may be taken and
17 the applicable procedure.

18 No rule shall specify disciplinary action for failure
19 to renew any license or certificate, pay any fee or
20 participate in any program of continuing education unless
21 the renewal, fee or participation is required by statute.

22 Rules authorized by both SB 407 and by other provisions
23 of law and previously adopted under such other provisions
24 need not be readopted under SB 407.

1 STATEMENT OF INTENT

2 SENATE BILL 407

3 Senate Judiciary Committee

4

5 SB 407 requires a statement of intent because it grants
6 each licensing board allocated to the Department of
7 Professional and Occupational Licensing the authority to
8 adopt specifying grounds for disciplinary action and the
9 type of action that may be taken.

10 Each board adopting new substantive or procedural rules
11 under SB 407 is to specify both the grounds upon which each
12 type of disciplinary action may be taken, and the procedure
13 to be used for each action. Each board using a disciplinary
14 action not specified in subsection (1)(a) through (e) but
15 considered proper under (1)(f) must also state in the rule
16 the grounds upon which disciplinary action may be taken and
17 the applicable procedure.

18 No rule shall specify disciplinary action for failure
19 to renew any license or certificate, pay any fee or
20 participate in any program of continuing education unless
21 the renewal, fee or participation is required by statute.

22 Rules authorized by both SB 407 and by other provisions
23 of law and previously adopted under such other provisions
24 need not be readopted under SB 407.

1 *Senate* BILL NO. *407*
 2 INTRODUCED BY *Steve Brown*
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFY THE
 6 DISCIPLINARY AUTHORITY OF LICENSING BOARDS IN THE DEPARTMENT
 7 OF PROFESSIONAL AND OCCUPATIONAL LICENSING."

8
 9 WHEREAS, during its sunset review of licensing boards,
 10 the Legislative Audit Committee noted that disciplinary
 11 authority of some boards over licensees is not specified in
 12 the law and that consequently some boards are hesitant to
 13 take disciplinary action against licensees.

14 THEREFORE, it is the intent of this act to specify the
 15 disciplinary authority of the boards allocated to the
 16 Department of Professional and Occupational Licensing.

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Disciplinary authority of boards --
 20 injunctions. (1) Each licensing board allocated to the
 21 department has the authority, in addition to any other
 22 penalty or disciplinary action provided by law, to adopt
 23 rules specifying grounds for disciplinary action and rules
 24 providing for:

25 (a) revocation of a license;

1 (b) suspension of its judgment of revocation on terms
 2 and conditions determined by the board;

3 (c) suspension of the right to practice for a period
 4 not exceeding 1 year;

5 (d) placing a licensee on probation;

6 (e) reprimand or censure of a licensee; or

7 (f) taking any other action in relation to
 8 disciplining a licensee as the board in its discretion
 9 considers proper.

10 (2) Any disciplinary action by a board shall be
 11 conducted as a contested case hearing under the provisions
 12 of the Montana Administrative Procedure Act.

13 (3) Notwithstanding any other provision of law, a
 14 board may maintain an action to enjoin a person from
 15 engaging in the practice of the occupation or profession
 16 regulated by the board until a license to practice is
 17 procured. A person who has been enjoined and who violates
 18 the injunction is punishable for contempt of court.

19 Section 2. Codification instruction. Section 1 is
 20 intended to be codified as an integral part of Title 37,
 21 chapter 1, part 1.

-End-

SB 407

1 STATEMENT OF INTENT

2 SENATE BILL 407

3 Senate Judiciary Committee

4

5 SB 407 requires a statement of intent because it grants
6 each licensing board allocated to the Department of
7 Professional and Occupational Licensing the authority to
8 adopt specifying grounds for disciplinary action and the
9 type of action that may be taken.

10 Each board adopting new substantive or procedural rules
11 under SB 407 is to specify both the grounds upon which each
12 type of disciplinary action may be taken, and the procedure
13 to be used for each action. Each board using a disciplinary
14 action not specified in subsections (1)(a) through (e) but
15 considered proper under (1)(f) must also state in the rule
16 the grounds upon which disciplinary action may be taken and
17 the applicable procedure.

18 No rule shall specify disciplinary action for failure
19 to renew any license or certificate, pay any fee or
20 participate in any program of continuing education unless
21 the renewal, fee or participation is required by statute.

22 Rules authorized by both SB 407 and by other provisions
23 of law and previously adopted under such other provisions
24 need not be readopted under SB 407.

SENATE BILL NO. 407

INTRODUCED BY S. BROWN, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFY THE DISCIPLINARY AUTHORITY OF LICENSING BOARDS IN THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING."

WHEREAS, during its sunset review of licensing boards, the Legislative Audit Committee noted that disciplinary authority of some boards over licensees is not specified in the law and that consequently some boards are hesitant to take disciplinary action against licensees.

THEREFORE, it is the intent of this act to specify the disciplinary authority of the boards allocated to the Department of Professional and Occupational Licensing.

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

Section 1. Disciplinary authority of boards -- injunctions. (1) Each licensing board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

(a) revocation of a license;

(b) suspension of its judgment of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding 1 year;

(d) placing a licensee on probation;

(e) reprimand or censure of a licensee; or

(f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by a board shall be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from engaging in the practice of the occupation or profession regulated by the board until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 37, chapter 1, part 1.

-End-