

HOUSE BILL NO. 162

1/12 Introduced
1/12 Referred to Business & Labor
1/15 Fiscal Note Requested
1/21 Hearing
1/22 Fiscal Note Received
Died in Committee

HOUSE BILL NO. 162

INTRODUCED BY W. R. ...
BY REQUEST OF THE STATE FIRE MARSHAL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF FIRE EQUIPMENT DEALER EXAMINERS; DEFINING THE POWERS AND DUTIES OF THE BOARD; TRANSFERRING TO THE BOARD THE RESPONSIBILITY OF THE STATE FIRE MARSHAL TO CERTIFY, LICENSE, AND ISSUE PERMITS TO PERSONS ENGAGED IN SELLING, LEASING, SERVICING, OR INSTALLING FIRE PROTECTION EQUIPMENT; AND REPEALING SECTIONS 50-39-101 THROUGH 50-39-105, MCA."

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

Section 1. Purpose. It is hereby declared that the public welfare and safety requires the control and regulation of all persons and firms engaged in the sale, leasing, service, or installation of fire protection equipment in order to protect the public from unsafe practices, unprofessional conduct, and the distribution of hazardous products.

Section 2. Definitions. For purposes of [this act], the following definitions apply:

- (1) "Board" means the board of fire equipment dealer examiners provided for in [section 3].
- (2) "Department" means the department of commerce

provided for in Title 2, chapter 15, part 18.

(3) "Fire protection equipment" means any portable fire extinguisher, fire extinguishing system, fire alarm, smoke alarm, or fire alarm system.

(4) "Person" means any individual, firm, corporation, partnership, or association.

Section 3. Board of fire equipment dealer examiners.

(1) There is a board of fire equipment dealer examiners.

(2) The board consists of five voting members appointed by the governor with the consent of the senate.

The members must be appointed as follows:

- (a) one member from the state fire marshal bureau;
 - (b) two members who hold or are eligible to hold a license pursuant to [section 13];
 - (c) one member representing a city fire department;
- and
- (d) one member of the public who is not engaged in the business of selling, leasing, servicing, or installing fire protection equipment as defined in [section 2].

(3) Each member shall serve for a term of 3 years. No member may serve more than two full consecutive terms.

(4) The board is allocated to the department of commerce for administrative purposes only as provided in 2-15-121.

Section 4. Meetings -- quorum -- officers of the



1 board. (1) The board shall meet at least once each year at a
2 place and time determined by the chairman and at other times
3 and places specified by the chairman to carry out the
4 provisions of [this act]. Three members constitutes a
5 quorum.

6 (2) Members of the board shall annually designate one
7 member to serve as chairman and another member to serve as
8 secretary-treasurer.

9 Section 5. Compensation of members. (1) Unless the
10 member is a full-time salaried officer or employee of this
11 state or of a political subdivision of this state, each
12 member is entitled to be paid \$50 for each day actually
13 spent in the performance of board duties.

14 (2) Each member is entitled to be reimbursed for
15 expenses as provided for in 2-18-501 through 2-18-503.

16 Section 6. Powers and duties. The board shall:

17 (1) grant registration and issue certificates of
18 registration to applicants qualified to service or install
19 fire protection equipment;

20 (2) issue permits to sell or lease approved fire
21 protection equipment;

22 (3) license persons who apply and are qualified to
23 service or install fire protection equipment;

24 (4) devise and administer an examination to determine
25 an applicant's knowledge and ability to service or install

1 fire protection equipment;

2 (5) periodically analyze and review certification
3 examination results, the effectiveness of the examination in
4 testing an applicant's knowledge, and if necessary revise
5 the examination to reflect changes in fire protection
6 equipment standards and fire codes;

7 (6) prescribe an application form and a process for
8 receiving applications for any certificate, permit, or
9 license required under [this act];

10 (7) establish a procedure to receive, investigate, and
11 hear complaints concerning the activities or practices of
12 persons holding a certificate, permit, or license issued by
13 the board;

14 (8) hold hearings relating to the granting,
15 suspension, or revocation of certificates, permits, or
16 licenses;

17 (9) conduct inspections and examinations that the
18 board considers necessary prior to issuance of certificates,
19 permits, or licenses; and

20 (10) adopt rules necessary to carry out its duties
21 under [this act].

22 Section 7. Remedies to enforce compliance. The board
23 may:

24 (1) initiate legal action against any person who is in
25 violation of [this act] or any rules adopted by the board;

1 (2) suspend, revoke, or refuse to issue a certificate,
2 permit, or license to any person in order to enforce
3 compliance with a rule, order, or law, pursuant to [section
4 20]; and

5 (3) exercise its authority to carry out disciplinary
6 action as provided in 37-1-136.

7 Section 8. Certificate of registration. (1) Except as
8 provided in subsection (2), a person must obtain from the
9 board a certificate of registration prior to installing or
10 servicing fire protection equipment.

11 (2) The following persons need not obtain a
12 certificate of registration:

13 (a) a manufacturer filling or charging a portable fire
14 extinguisher prior to its initial sale;

15 (b) an apprentice of a person installing or servicing
16 fire protection equipment. However, the person must have
17 verified to the board that any apprentices performing these
18 services, listed by name, will perform the installation or
19 servicing of fire protection equipment under the personal
20 immediate supervision of a qualified registrant. An
21 apprentice is a person who is engaged in a training position
22 and employed by a person licensed pursuant to [section 13].
23 A person may serve as an apprentice for no more than 1 year
24 before obtaining a certificate of registration.

25 (c) an electrical contractor that has a contract to

1 physically install and wire a fire alarm system according to
2 drawings, if all final connections of the system are
3 supervised by a qualified registrant.

4 (3) A certificate of registration is valid only when
5 the holder is a proprietor or an employee of a place of
6 business that is licensed under [section 13].

7 Section 9. Examination for certificate. (1) The board
8 shall issue a certificate of registration to an applicant
9 who scores a passing grade on an examination devised by the
10 board and who pays the required fee.

11 (2) The examination must include a written test and
12 may include practical tests or demonstrations that the board
13 finds necessary to determine the applicant's knowledge and
14 ability to service or install fire protection equipment.

15 (3) The written examination may include information
16 from the most current edition of the Fire Protection
17 Handbook, the most current editions of the Uniform Fire Code
18 Standard No. 10.1, and the National Fire Protection
19 Association pamphlets.

20 (4) An examination may be waived in the discretion of
21 the board if the applicant provides satisfactory
22 documentation that:

23 (a) he has received the training required by the
24 manufacturer of the fire protection equipment he plans to
25 service or install; and

1 (b) he is qualified to install or service the
2 manufacturer's fire protection equipment.

3 (5) The examination may also include information
4 concerning hydrostatic testing of department of
5 transportation listed cylinders contained in the Compressed
6 Gas Association Pamphlet C-1 (Methods for Hydrostatic
7 Testing of Compressed Gas Cylinders).

8 (6) An applicant who fails may reapply after 30 days
9 to take another examination.

10 Section 10. Endorsement of qualifications. (1) The
11 certificate of registration must be endorsed with the type
12 of qualifications of the holder, as determined by the types
13 of work to be performed listed on the application and as
14 determined by the examination.

15 (2) Possible endorsements are:

16 (a) hydrostatic testing of any wet chemical or
17 non-department of transportation listed cylinder;

18 (b) hydrostatic testing of any department of
19 transportation listed cylinder; or

20 (c) installation, servicing, charging, recharging, or
21 inspecting:

22 (i) portable fire extinguishers;

23 (ii) fire extinguishing systems;

24 (iii) fire alarms; or

25 (iv) fire alarm systems.

1 (3) A registrant may perform only the type of work
2 endorsed on his certificate of registration.

3 Section 11. Duty to report address change. A
4 registrant must report a change of address to the board
5 within 15 days of the change. The registrant must also
6 record the new address on the reverse side of the
7 certificate.

8 Section 12. Permit to sell. (1) Prior to the sale or
9 lease of fire protection equipment, a person shall obtain a
10 permit from the board. A permit must be obtained for each
11 separate location from which fire protection equipment is
12 sold or leased.

13 (2) The board shall issue a permit to any person who:

14 (a) submits the required information on an application
15 prescribed by the board;

16 (b) furnishes satisfactory proof that the equipment
17 that is or will be in his inventory is approved as required
18 by [section 17]; and

19 (c) pays the required fee.

20 Section 13. License to install or service. (1) Except
21 as provided in subsection (2), a person engaged in the
22 installation or servicing of fire protection equipment must
23 obtain a license for each separate business location,
24 specifying the type of work to be performed.

25 (2) A manufacturer engaged only in filling or charging

1 portable fire extinguishers prior to initial sale need not
2 obtain a license to install.

3 (3) A license is valid only so long as the holder is
4 engaged in the installation or servicing of fire protection
5 equipment.

6 (4) The board shall issue a license to any person who:

7 (a) submits satisfactory proof that the business
8 location is properly equipped and staffed to provide the
9 services to be licensed;

10 (b) pays the required fee; and

11 (c) if applicable, files the items required by
12 [section 15].

13 Section 14. License limitations. A person licensed
14 pursuant to [section 13] may perform only the type of work
15 that the board has approved, as indicated on the license,
16 and for which the person:

17 (1) has submitted satisfactory proof of a
18 manufacturer's authorization and insurance as required by
19 [section 15]; and

20 (2) is properly equipped as required by [section 16].

21 Section 15. Proof of manufacturer's authorization --
22 insurance. An applicant for a license to install or service
23 fire extinguishing systems shall file the following items
24 with the board each time he applies for an original license
25 or for an annual license renewal:

1 (1) If the applicant is a distributor, the applicant
2 shall file a statement from the manufacturer of a system
3 that the applicant intends to install or service, stating:

4 (a) that the applicant is an authorized distributor of
5 the manufacturer; and

6 (b) what type of liability insurance and the liability
7 limits thereon that the manufacturer requires of each
8 distributor.

9 (2) If the applicant is not a distributor, the
10 applicant shall file a certificate of insurance issued by
11 the applicant's insurer, stating that the applicant's policy
12 provides contractor's blanket liability insurance for bodily
13 injury and property damage. The limits of liability may not
14 be less than those required by the manufacturer or the
15 limits of liability for bodily and property damage
16 established by the board, whichever is greater.

17 (3) Each applicant in subsections (1) and (2) also
18 shall file a statement from the insurer stating that the
19 insurer agrees to notify the board within 10 days of the
20 cancellation or termination of the policy.

21 Section 16. Equipment required -- inspection. (1) A
22 licensee shall equip each of his business locations or
23 mobile units with the equipment, material, and spare parts
24 that the board considers necessary to install or service
25 fire protection equipment. Each registered employee of a

1 licensee must have immediate access to that equipment,
2 material, and spare parts.

3 (2) The board may inspect a licensee's business
4 locations and mobile units for compliance with this section
5 before granting or renewing a license.

6 Section 17. Approval of equipment. No person may sell,
7 lease, or install fire protection equipment unless the
8 equipment has been approved, labeled, or listed by a testing
9 laboratory approved by the state fire marshal by rule.

10 Section 18. Expiration and renewal of certificates,
11 permits, or licenses. (1) All certificates, permits, or
12 licenses expire on the date established by rule of the board
13 and become invalid on that date unless renewed.

14 (2) For the purposes of renewal, a person must submit
15 an application during the month preceding the scheduled
16 expiration of such certificate, permit, or license. In the
17 application, the person must provide information indicating
18 a change of business location, a change in the nature of
19 business activity, and any other changes that the board
20 considers necessary to be included on the application for
21 renewal.

22 (3) A person who holds a current certificate of
23 registration need not take an examination in order to renew
24 the certificate.

25 (4) To renew a license, a person must submit proof of

1 the manufacturer's authorization and insurance, as required
2 by [section 15].

3 Section 19. Deposit of money collected. The department
4 shall collect all money under [this act] and shall deposit
5 it in the state special revenue fund for the use of the
6 board, subject to 37-1-101(6). This fund may be used to pay
7 the compensation and expenses of members of the board and
8 other expenses necessary to administer [this act].

9 Section 20. Suspension or revocation of certificate,
10 permit, or license. The board shall suspend or revoke a
11 certificate of registration, permit, or license, following
12 notice and opportunity for hearing, if the holder has:

13 (1) obtained or attempted to obtain a certificate of
14 registration, permit, or license by fraudulent
15 misrepresentation;

16 (2) committed acts or exhibited incompetency
17 endangering the public health and safety in the sale,
18 installation, repair, or servicing of any fire protection
19 equipment;

20 (3) advertised or sold fire protection equipment by
21 knowingly making false or deceptive statements;

22 (4) sold, leased, or installed fire protection
23 equipment not approved, labeled, or listed by a testing
24 laboratory approved by the state fire marshal as required
25 under [section 17];

1 (5) failed, upon request, to produce the items
2 required by [section 15];

3 (6) employed a person who is required to have a
4 certificate of registration under [section 8] but who does
5 not have such a certificate to install, service, charge,
6 recharge, or inspect a portable fire extinguisher, fire
7 extinguishing system, fire alarm, or fire alarm system; or

8 (7) violated any provision of [this act].

9 Section 21. Investigation of complaints -- licensee
10 responsible for work of employees. (1) Upon the receipt of a
11 signed complaint of improper installation or inadequate
12 servicing by a holder of a certificate, permit, or license,
13 the board shall conduct an investigation of the complaint.

14 (2) A licensee is responsible for the installation and
15 workmanship of apprentices and registrants employed by him.

16 Section 22. Fees. (1) The board shall set a fee for
17 each certificate, permit, or license required by this
18 chapter. Such fee must be an amount reasonably related to
19 the costs of issuing such certificates, permits, or
20 licenses, as required by 37-1-134.

21 (2) The board may establish fees, including but not
22 limited to fees for application, examination, renewal, late
23 renewal, and inspection.

24 Section 23. Penalty for unlawful business. A person
25 who engages in the business of selling, leasing, servicing,

1 or installing fire protection equipment without a valid
2 certificate, permit, or license is guilty of a misdemeanor
3 and upon conviction may be fined not more than \$500 or may
4 be imprisoned for not more than 90 days, or both.

5 Section 24. Duties of fire marshal in other areas
6 preserved. Nothing contained in [this act] may be construed
7 to limit the power or duty of the state fire marshal
8 otherwise to safeguard life and property from the hazards of
9 fire and to carry into effect the fire prevention laws of
10 the state.

11 Section 25. Repealer. Sections 50-39-101 through
12 50-39-105, MCA, are repealed.

13 Section 26. Codification instruction. (1) Section 3 is
14 intended to be codified as an integral part of Title 2,
15 chapter 15, part 18, and the provisions of Title 2, chapter
16 15, part 18, apply to section 3.

17 (2) Sections 1, 2, and 4 through 24 are intended to be
18 codified as an integral part of Title 37, and the provisions
19 of Title 37, chapter 1, apply to sections 1, 2, and 4
20 through 24.

21 Section 27. Appointment of initial commission terms.
22 (1) Within 30 days after the effective date of this act, the
23 governor shall appoint members to the board in compliance
24 with section 3.

25 (2) The provisions of section 3 notwithstanding, one

LC 0565/01

1 person initially appointed to the board shall serve a 1-year
2 term, two shall serve 2-year terms, and the remaining
3 appointees shall serve 3-year terms.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN102-85

Form BD-15

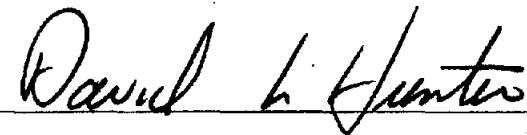
In compliance with a written request received January 15 19 85, there is hereby submitted a Fiscal Note for H.B. 162 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

"To Create a Board of Fire Equipment Dealer Examiners, granting rule making authority, transferring to the Board the responsibility of the State Fire Marshal to certify, license and issue permits to persons engaged in selling, leasing, servicing, or installing fire protection equipment.

ASSUMPTIONS:

1. Assume .50 FTE, Grade 11, step 2, benefits 18½% per year.
2. Assume 5 board members meet 4 times a year (25 meeting days).
3. Assume 2 examinations per year.
4. Assume number of licenses, registrations and permits will increase from current number of 34 permits, 14 licenses and 15 certificates of registration.
5. Assume office equipment and space will be required.
6. Assume General Fund loan for start up first year (FY86).
7. Assume fees commensurate with costs.
8. Assume 20 pages APA rules and notices at \$14 a page.
9. Assume 50 hours legal first year, 20 hours a year thereafter at \$40 an hour.
10. Assume \$900 a year travel per board member.
11. Assume October 1, 1985 effective date.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 21, 1985

FISCAL IMPACT:

	UNDER CURRENT LAW		UNDER PROPOSED LAW		BIENNIUM INCREASE
	FISCAL 86	FISCAL 87	FISCAL 86	FISCAL 87	
Expenditures	\$ 7,415	\$ 7,415	\$ 20,962	\$ 18,762	\$ 24,894
	General Fund in the Department of Justice		State Special Revenue in the Department of Commerce		

- Notes:
1. The Department of Justice wishes to retain the \$7,415 General Fund currently appropriated annually to the State Fire Marshall's office.
 2. Because of the relatively few permits now issued, the fee necessary for this program to be self supporting may represent a substantial increase to the current fee.
 3. Funding in Fiscal 1986 will be general fund loan until fees for permits can be granted. It is assumed that the fees will generate sufficient revenues to repay the general fund loan by June 30, 1987.