

SENATE BILL NO. 222

1/22 Introduced
1/23 Referred to State Administration
1/28 Fiscal Note Requested
2/01 Fiscal Note Received
2/13 Hearing
2/18 Adverse Committee Report
2/18 Bill Killed

Senate BILL NO. 222

INTRODUCED BY _____
BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GIVE BOARDS ALLOCATED TO THE DEPARTMENT OF COMMERCE AUTHORITY TO IMPOSE ALTERNATE LICENSE DISCIPLINARY SANCTIONS WITHOUT THE NECESSITY OF ADOPTING RULES; TO BROADEN THOSE SANCTIONS TO INCLUDE LICENSE SUSPENSIONS FOR MORE THAN 1 YEAR, LIMITATION OF THE SCOPE OF PRACTICE, DEFERRAL OF DISCIPLINARY PROCEEDINGS OR SANCTIONS, REQUIRING ADDITIONAL PROFESSIONAL TRAINING, AND IMPOSITION OF A CIVIL FINE IN LIEU OF OTHER SANCTIONS; AND PROVIDING FOR ENFORCEMENT OF LICENSE SURRENDER IN CASES OF LICENSE REVOCATION; AMENDING SECTION 37-1-136, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 37-1-136, MCA, is amended to read:
"37-1-136. 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 impose the following disciplinary action--and--rules--providing-for sanctions in appropriate cases:

- (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-i-year;~~
- (d) placing a licensee on probation;
- (e) reprimand or censure of a licensee; or
- (f) limitation or restriction of the scope of the license and the licensee's practice;
- (g) deferral of disciplinary proceedings or imposition of disciplinary sanctions;
- (h) enforcement of the surrender of a revoked license and all other evidence of authority to practice, by issuing an appropriate warrant to the sheriff of the county in which the licensee had practiced commanding the sheriff to take possession of the license and other evidence of authority to practice and to deliver the same to the board;
- (i) ordering the licensee to successfully complete appropriate professional training;
- (j) imposition of a civil fine in lieu of other disciplinary sanctions as provided in subsection (2); or
- (k) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.
- (2) A fine imposed pursuant to subsection (1)(j) may



1 not exceed \$500 for any one violation of statute or
2 professional practice standards but may be levied for more
3 than one violation. These fines must be construed as civil
4 remedies, not criminal in nature. All fines collected under
5 this section must be paid to the state special revenue fund
6 for the use of the board having jurisdiction.

7 †2†(3) Any disciplinary action by a board shall be
8 conducted as a contested case hearing under the provisions
9 of the Montana Administrative Procedure Act.

10 †3†(4) Notwithstanding any other provision of law, a
11 board may maintain an action to enjoin a person from
12 engaging in the practice of the occupation or profession
13 regulated by the board until a license to practice is
14 procured. A person who has been enjoined and who violates
15 the injunction is punishable for contempt of court."

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 251-85

Form BD-15

In compliance with a written request received January 29, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 222 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:

This bill gives authority to boards allocated to the Department of Commerce to impose alternate license disciplinary sanctions without the necessity of adopting rules. The bill provides for the imposition of a civil fine in lieu of other disciplinary sanctions. The bill also provides for enforcement of license surrender in cases of license revocation.

ASSUMPTIONS AND FISCAL IMPACT:

The fiscal impact of imposition of fines cannot be determined. Thirty licensing boards and programs are affected, but until individual boards take action on disciplinary sanctions for imposition of fines, the fiscal impact is unknown. Some boards may not utilize the provisions of this legislation while other boards may use the provision extensively.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 1, 1985