

HOUSE BILL NO. 326

INTRODUCED BY RICE, RAMIREZ, ADDY

IN THE HOUSE

JANUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
JANUARY 21, 1989	FIRST READING.
FEBRUARY 2, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 3, 1989	PRINTING REPORT.
FEBRUARY 4, 1989	SECOND READING, DO PASS.
FEBRUARY 6, 1989	ENGROSSING REPORT.
FEBRUARY 7, 1989	THIRD READING, PASSED. AYES, 90; NOES, 8.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 8, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 10, 1989	SECOND READING, CONCURRED IN.
MARCH 13, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

MARCH 14, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 326
2 INTRODUCED BY Rep Ramsey Bill
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN
5 PARALEGALS, LEGAL ASSISTANTS, AND LAW STUDENTS FROM THE LAWS
6 REGULATING PRIVATE INVESTIGATORS AND PATROLMEN; AND AMENDING
7 SECTION 37-60-105, MCA."
8

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

10 **Section 1.** Section 37-60-105, MCA, is amended to read:

11 "37-60-105. Exemptions. This chapter does not apply
12 to:

13 (1) (a) any one person employed singly and exclusively
14 by any one employer in connection with the affairs of such
15 employer only and where there exists an employer-employee
16 relationship and the employee is unarmed, does not wear a
17 uniform, and is guarding inside a structure which at the
18 time is not open to the public;

19 (b) a person:

20 (i) employed singly and exclusively by a retail
21 merchant;

22 (ii) performing at least some of his work for the
23 retail merchant as a private security guard; and

24 (iii) who has received training as a private security
25 guard from the employer or at the employer's direction;

1 (2) an officer or employee of the United States of
2 America or of this state or a political subdivision thereof
3 while such officer or employee is engaged in the performance
4 of his official duties;

5 (3) a person engaged exclusively in the business of
6 obtaining and furnishing information as to the financial
7 rating of persons or as to the personal habits and financial
8 responsibility of applicants for insurance, indemnity bonds,
9 or commercial credit;

10 (4) (a) an attorney at law in performing his duties as
11 such an attorney at law; or

12 (b) a legal intern, paralegal, or legal assistant
13 employed by a licensed attorney; or

14 (c) a law student who is serving a legal internship;

15 (5) a collection agency or finance company licensed to
16 do business under the laws of this state, or an employee
17 thereof while acting within the scope of his employment,
18 while making an investigation incidental to the business of
19 the agency or company, including an investigation of the
20 location of a debtor or his property where the contract with
21 an assignor creditor is for the collection of claims owed or
22 due or asserted to be owed or due or the equivalent thereof;

23 (6) special agents employed by railroad companies,
24 provided the railroad company notifies the board that such
25 agents are operating in the state;

1 (7) insurers and agents and insurance brokers licensed
2 by the state, performing duties in connection with insurance
3 transacted by them;

4 (8) an insurance adjuster, as defined by
5 37-60-101(10); or

6 (9) an internal investigator or auditor, while making
7 an investigation incidental to the business of the agency or
8 company by which he is singularly and regularly employed."

9 NEW SECTION. **Section 2.** Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

-End-

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 326

INTRODUCED BY RICE, RAMIREZ, ADDY

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN
PARALEGALS, LEGAL ASSISTANTS, AND LAW STUDENTS FROM THE LAWS
REGULATING PRIVATE INVESTIGATORS AND PATROLMEN; DEFINING
"PARALEGALS" AND "LEGAL ASSISTANTS"; AND AMENDING SECTION
SECTIONS 37-60-101, 37-60-105, AND 37-60-307, MCA."

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

SECTION 1. SECTION 37-60-101, MCA, IS AMENDED TO READ:

"37-60-101. Definitions. As used in this chapter, the
following definitions apply:

(1) "Alarm response runner" means any individual
employed by a contract security company or a proprietary
security organization to respond to security alarm system
signals.

(2) "Armed carrier service" means any person who
transports or offers to transport under armed private
security guard from one place to another any currency,
documents, papers, maps, stocks, bonds, checks, or other
items of value that require expeditious delivery.

(3) "Armed private investigator" means a private
investigator who at any time wears, carries, possesses, or
has access to a firearm in the performance of his duties.

(4) "Armed private security guard" means an individual
employed by a contract security company or a proprietary
security organization whose duty or any portion of whose
duty is that of a security guard, armored car service guard,
carrier service guard, or alarm response runner and who at
any time wears or carries a firearm in the performance of
his duties.

(5) "Armored car service" means any person who
transports or offers to transport under armed private
security guard from one place to another any currency,
jewels, stocks, bonds, paintings, or other valuables of any
kind in a specially equipped motor vehicle that offers a
high degree of security.

(6) "Board" means the board of private security
patrolmen and investigators provided for in 2-15-1891.

(7) "Branch office" means any office of a licensee
within the state, other than its principal place of business
within the state.

(8) "Contract security company" means any person who
installs or maintains a security alarm system, undertakes to
provide a private security guard, alarm response runner,
armored car service, street patrol service, or armed carrier
service on a contractual basis to another person who
exercises no direction and control over the performance of
the details of the services rendered.

(9) "Department" means the department of commerce provided for in 2-15-1801.

(10) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration whatsoever conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes or wrongs committed or threatened against the United States or any state or territory thereof.

(11) "Licensee" means a person licensed under this chapter.

(12) "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by a lawyer, law office, governmental agency, or other entity or who may be authorized by administrative, statutory, or court authority to perform this work.

{12}{13} "Person" includes any individual, firm, company, association, organization, partnership, and corporation.

{13}{14} "Private investigator" means a person other than an insurance adjuster who for any consideration

whatsoever makes or agrees to make any investigation with reference to:

(a) crimes or wrongs done or threatened against the United States or any state or territory thereof;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or

(e) securing evidence to be used before any court, board, officer, or investigating committee.

{14}{15} "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property, or the direction of the movements of the public in public areas.

{15}{16} "Proprietary security organization" means any person who employs a private security guard, an alarm response runner, armored car service, street patrol service,

1 or armed carrier service on a routine basis solely for the
2 purposes of that person and exerts direction and control
3 over the performance of the details of the service rendered.

4 ~~†16†~~(17) "Qualifying agent" means, in the case of a
5 corporation, a corporate employee employed in a management
6 capacity or, in the case of a partnership, a general or
7 unlimited partner meeting the qualifications set forth in
8 this chapter for the operation of a contract security
9 company, proprietary security organization, or private
10 investigator, whichever is applicable.

11 ~~†17†~~(18) "Resident agent" means the person appointed to
12 exercise direct supervision, control, charge, management, or
13 operation of each branch office located in this state where
14 the business of the licensee is conducted.

15 ~~†18†~~(19) "Security alarm system" means an assembly of
16 equipment and devices or a single device such as a solid
17 state unit which plugs directly into a 110-volt AC line,
18 designed to detect or signal or to both detect and signal
19 unauthorized intrusion, movement, or criminal acts at a
20 protected premises, to which signals police, private
21 security guards, or alarm response runners are expected to
22 respond. Fire alarm systems and alarm systems that monitor
23 temperature, humidity, or any other atmospheric condition
24 not directly related to the detection of an unauthorized
25 intrusion or criminal act at a premises are not included

1 within the meaning of this definition.

2 ~~†19†~~(20) "Street patrol service" means any contract
3 security company or proprietary security organization that
4 uses foot patrols, motor vehicles, or any other means of
5 transportation to maintain public order or detect criminal
6 activities in public areas or thoroughfares.

7 ~~†20†~~(21) "Unarmed private investigator" means a private
8 investigator who does not wear, carry, possess, or have
9 access to a firearm in the performance of his duties.

10 ~~†21†~~(22) "Unarmed private security guard" means an
11 individual employed by a contract security company or a
12 proprietary security organization whose duty or any portion
13 of whose duty is that of a private security guard, armored
14 car service guard, or alarm response runner, who does not
15 wear or carry a firearm in the performance of those duties."

16 **Section 2.** Section 37-60-105, MCA, is amended to read:

17 **"37-60-105. Exemptions.** This chapter does not apply
18 to:

19 (1) (a) any one person employed singly and exclusively
20 by any one employer in connection with the affairs of such
21 employer only and where there exists an employer-employee
22 relationship and the employee is unarmed, does not wear a
23 uniform, and is guarding inside a structure which at the
24 time is not open to the public;

25 (b) a person:

1 (i) employed singly and exclusively by a retail
 2 merchant;
 3 (ii) performing at least some of his work for the
 4 retail merchant as a private security guard; and
 5 (iii) who has received training as a private security
 6 guard from the employer or at the employer's direction;
 7 (2) an officer or employee of the United States of
 8 America or of this state or a political subdivision thereof
 9 while such officer or employee is engaged in the performance
 10 of his official duties;
 11 (3) a person engaged exclusively in the business of
 12 obtaining and furnishing information as to the financial
 13 rating of persons or as to the personal habits and financial
 14 responsibility of applicants for insurance, indemnity bonds,
 15 or commercial credit;
 16 (4) (a) an attorney at law in performing his duties as
 17 such an attorney at law; or
 18 (b) a legal intern, paralegal, or legal assistant
 19 employed by a licensed attorney; or
 20 (c) a law student who is serving a legal internship;
 21 (5) a collection agency or finance company licensed to
 22 do business under the laws of this state, or an employee
 23 thereof while acting within the scope of his employment,
 24 while making an investigation incidental to the business of
 25 the agency or company, including an investigation of the

1 location of a debtor or his property where the contract with
 2 an assignor creditor is for the collection of claims owed or
 3 due or asserted to be owed or due or the equivalent thereof;
 4 (6) special agents employed by railroad companies,
 5 provided the railroad company notifies the board that such
 6 agents are operating in the state;
 7 (7) insurers and agents and insurance brokers licensed
 8 by the state, performing duties in connection with insurance
 9 transacted by them;
 10 (8) an insurance adjuster, as defined by
 11 37-60-101(10); or
 12 (9) an internal investigator or auditor, while making
 13 an investigation incidental to the business of the agency or
 14 company by which he is singularly and regularly employed."
 15 **SECTION 3. SECTION 37-60-307, MCA, IS AMENDED TO READ:**
 16 **"37-60-307. Action on application.** (1) The board shall
 17 grant the application for an original or renewal license or
 18 identification card unless it finds that the applicant,
 19 branch office manager, or qualifying agent has:
 20 (a) not met the qualifications of 37-60-303;
 21 (b) practiced fraud, deceit, or misrepresentation in
 22 the application process;
 23 (c) knowingly made a material misstatement in the
 24 application for a license;
 25 (d) violated any of the provisions of this chapter or

1 the rules of the board; or

2 (e) taken any action warranting suspension or
3 revocation under 37-60-321.

4 (2) If an original or renewal license or
5 identification card is denied, the applicant may request a
6 hearing within 30 days after receipt of notice of denial.
7 The hearing ~~shall~~ must be held in accordance with the
8 provisions of the Montana Administrative Procedure Act and
9 the rules of the department of commerce.

10 (3) Licenses or identification cards ~~shall~~ must be
11 granted by name for those categories of persons listed in
12 37-60-101(1), (2), (3), (4), (5), (8), ~~(13)~~ (14), (15),
13 (16), (17), (18), ~~(19)~~ (20), or (21), or (22), or any
14 combination of the foregoing."

15 NEW SECTION. **Section 4. Extension of authority.** Any
16 existing authority to make rules on the subject of the
17 provisions of [this act] is extended to the provisions of
18 [this act].

-End-

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transports or offers to transport under armed private
security guard from one place to another any currency,
documents, papers, maps, stocks, bonds, checks, or other
items of value that require expeditious delivery.

(3) "Armed private investigator" means a private
investigator who at any time wears, carries, possesses, or
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(4) "Armed private security guard" means an individual
employed by a contract security company or a proprietary
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(7) "Branch office" means any office of a licensee
within the state, other than its principal place of business
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service on a contractual basis to another person who
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the details of the services rendered.

(9) "Department" means the department of commerce provided for in 2-15-1801.

(10) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration whatsoever conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes or wrongs committed or threatened against the United States or any state or territory thereof.

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(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or

(e) securing evidence to be used before any court, board, officer, or investigating committee.

~~(14)~~(15) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property, or the direction of the movements of the public in public areas.

~~(15)~~(16) "Proprietary security organization" means any person who employs a private security guard, an alarm response runner, armored car service, street patrol service,

1 or armed carrier service on a routine basis solely for the
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3 over the performance of the details of the service rendered.

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6 capacity or, in the case of a partnership, a general or
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8 this chapter for the operation of a contract security
9 company, proprietary security organization, or private
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15 ~~{18}~~(19) "Security alarm system" means an assembly of
16 equipment and devices or a single device such as a solid
17 state unit which plugs directly into a 110-volt AC line,
18 designed to detect or signal or to both detect and signal
19 unauthorized intrusion, movement, or criminal acts at a
20 protected premises, to which signals police, private
21 security guards, or alarm response runners are expected to
22 respond. Fire alarm systems and alarm systems that monitor
23 temperature, humidity, or any other atmospheric condition
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25 intrusion or criminal act at a premises are not included

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8 investigator who does not wear, carry, possess, or have
9 access to a firearm in the performance of his duties.

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11 individual employed by a contract security company or a
12 proprietary security organization whose duty or any portion
13 of whose duty is that of a private security guard, armored
14 car service guard, or alarm response runner, who does not
15 wear or carry a firearm in the performance of those duties."

16 **Section 2.** Section 37-60-105, MCA, is amended to read:

17 **"37-60-105. Exemptions.** This chapter does not apply
18 to:

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20 by any one employer in connection with the affairs of such
21 employer only and where there exists an employer-employee
22 relationship and the employee is unarmed, does not wear a
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24 time is not open to the public;

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 2 merchant;
 3 (ii) performing at least some of his work for the
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1 location of a debtor or his property where the contract with
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 21 (b) practiced fraud, deceit, or misrepresentation in
 22 the application process;
 23 (c) knowingly made a material misstatement in the
 24 application for a license;
 25 (d) violated any of the provisions of this chapter or

1 the rules of the board; or

2 (e) taken any action warranting suspension or
3 revocation under 37-60-321.

4 (2) If an original or renewal license or
5 identification card is denied, the applicant may request a
6 hearing within 30 days after receipt of notice of denial.
7 The hearing ~~shall~~ must be held in accordance with the
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16 existing authority to make rules on the subject of the
17 provisions of [this act] is extended to the provisions of
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documents, papers, maps, stocks, bonds, checks, or other
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kind in a specially equipped motor vehicle that offers a
high degree of security.

(6) "Board" means the board of private security
patrolmen and investigators provided for in 2-15-1891.

(7) "Branch office" means any office of a licensee
within the state, other than its principal place of business
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service on a contractual basis to another person who
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(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or

(e) securing evidence to be used before any court, board, officer, or investigating committee.

~~(14)~~(15) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property, or the direction of the movements of the public in public areas.

~~(15)~~(16) "Proprietary security organization" means any person who employs a private security guard, an alarm response runner, armored car service, street patrol service,

1 or armed carrier service on a routine basis solely for the
2 purposes of that person and exerts direction and control
3 over the performance of the details of the service rendered.

4 ~~(16)~~(17) "Qualifying agent" means, in the case of a
5 corporation, a corporate employee employed in a management
6 capacity or, in the case of a partnership, a general or
7 unlimited partner meeting the qualifications set forth in
8 this chapter for the operation of a contract security
9 company, proprietary security organization, or private
10 investigator, whichever is applicable.

11 ~~(17)~~(18) "Resident agent" means the person appointed to
12 exercise direct supervision, control, charge, management, or
13 operation of each branch office located in this state where
14 the business of the licensee is conducted.

15 ~~(18)~~(19) "Security alarm system" means an assembly of
16 equipment and devices or a single device such as a solid
17 state unit which plugs directly into a 110-volt AC line,
18 designed to detect or signal or to both detect and signal
19 unauthorized intrusion, movement, or criminal acts at a
20 protected premises, to which signals police, private
21 security guards, or alarm response runners are expected to
22 respond. Fire alarm systems and alarm systems that monitor
23 temperature, humidity, or any other atmospheric condition
24 not directly related to the detection of an unauthorized
25 intrusion or criminal act at a premises are not included

1 within the meaning of this definition.

2 ~~(19)~~(20) "Street patrol service" means any contract
3 security company or proprietary security organization that
4 uses foot patrols, motor vehicles, or any other means of
5 transportation to maintain public order or detect criminal
6 activities in public areas or thoroughfares.

7 ~~(20)~~(21) "Unarmed private investigator" means a private
8 investigator who does not wear, carry, possess, or have
9 access to a firearm in the performance of his duties.

10 ~~(21)~~(22) "Unarmed private security guard" means an
11 individual employed by a contract security company or a
12 proprietary security organization whose duty or any portion
13 of whose duty is that of a private security guard, armored
14 car service guard, or alarm response runner, who does not
15 wear or carry a firearm in the performance of those duties."

16 **Section 2.** Section 37-60-105, MCA, is amended to read:

17 "37-60-105. Exemptions. This chapter does not apply
18 to:

19 (1) (a) any one person employed singly and exclusively
20 by any one employer in connection with the affairs of such
21 employer only and where there exists an employer-employee
22 relationship and the employee is unarmed, does not wear a
23 uniform, and is guarding inside a structure which at the
24 time is not open to the public;

25 (b) a person:

1 (i) employed singly and exclusively by a retail
2 merchant;

3 (ii) performing at least some of his work for the
4 retail merchant as a private security guard; and

5 (iii) who has received training as a private security
6 guard from the employer or at the employer's direction;

7 (2) an officer or employee of the United States of
8 America or of this state or a political subdivision thereof
9 while such officer or employee is engaged in the performance
10 of his official duties;

11 (3) a person engaged exclusively in the business of
12 obtaining and furnishing information as to the financial
13 rating of persons or as to the personal habits and financial
14 responsibility of applicants for insurance, indemnity bonds,
15 or commercial credit;

16 (4) (a) an attorney at law in performing his duties as
17 such an attorney at law; or

18 (b) a legal intern, paralegal, or legal assistant
19 employed by a licensed attorney; or

20 (c) a law student who is serving a legal internship;

21 (5) a collection agency or finance company licensed to
22 do business under the laws of this state, or an employee
23 thereof while acting within the scope of his employment,
24 while making an investigation incidental to the business of
25 the agency or company, including an investigation of the

1 location of a debtor or his property where the contract with
2 an assignor creditor is for the collection of claims owed or
3 due or asserted to be owed or due or the equivalent thereof;

4 (6) special agents employed by railroad companies,
5 provided the railroad company notifies the board that such
6 agents are operating in the state;

7 (7) insurers and agents and insurance brokers licensed
8 by the state, performing duties in connection with insurance
9 transacted by them;

10 (8) an insurance adjuster, as defined by
11 37-60-101(10); or

12 (9) an internal investigator or auditor, while making
13 an investigation incidental to the business of the agency or
14 company by which he is singularly and regularly employed."

15 **SECTION 3. SECTION 37-60-307, MCA, IS AMENDED TO READ:**

16 **"37-60-307. Action on application.** (1) The board shall
17 grant the application for an original or renewal license or
18 identification card unless it finds that the applicant,
19 branch office manager, or qualifying agent has:

20 (a) not met the qualifications of 37-60-303;

21 (b) practiced fraud, deceit, or misrepresentation in
22 the application process;

23 (c) knowingly made a material misstatement in the
24 application for a license;

25 (d) violated any of the provisions of this chapter or

1 the rules of the board; or

2 (e) taken any action warranting suspension or
3 revocation under 37-60-321.

4 (2) If an original or renewal license or
5 identification card is denied, the applicant may request a
6 hearing within 30 days after receipt of notice of denial.
7 The hearing ~~shall~~ must be held in accordance with the
8 provisions of the Montana Administrative Procedure Act and
9 the rules of the department of commerce.

10 (3) Licenses or identification cards ~~shall~~ must be
11 granted by name for those categories of persons listed in
12 37-60-101(1), (2), (3), (4), (5), (8), ~~†13†~~ (14), (15),
13 (16), (17), ~~†18†~~, ~~†19†~~ (20), or (21), or (22), or any
14 combination of the foregoing."

15 NEW SECTION. Section 4. Extension of authority. Any
16 existing authority to make rules on the subject of the
17 provisions of [this act] is extended to the provisions of
18 [this act].

-End-