

SENATE BILL NO. 407

INTRODUCED BY JACOBSON, NORMAN, WALKER,
MANNING, ECK, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES

IN THE SENATE

FEBRUARY 13, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON PUBLIC HEALTH, WELFARE & SAFETY.

FIRST READING.

FEBRUARY 17, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

STATEMENT OF INTENT ADOPTED.

FEBRUARY 18, 1989

PRINTING REPORT.

FEBRUARY 20, 1989

SECOND READING, DO PASS.

ENGROSSING REPORT.

FEBRUARY 21, 1989

THIRD READING, PASSED.
AYES, 48; NOES, 2.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON HUMAN SERVICES & AGING.

FIRST READING.

MARCH 14, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 16, 1989

SECOND READING, CONCURRED IN.

MARCH 17, 1989

THIRD READING, CONCURRED IN.
AYES, 71; NOES, 25.

RETURNED TO SENATE.

MARCH 18, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *407*
2 INTRODUCED BY *Jacobson*
3 *Richard D. Manning* BY REQUEST OF THE DEPARTMENT OF HEALTH AND
4 ENVIRONMENTAL SCIENCES
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
7 CLARIFY THE LAWS RELATING TO EMERGENCY MEDICAL SERVICES;
8 AMENDING SECTIONS 50-6-301, 50-6-302, 50-6-304, 50-6-306
9 THROUGH 50-6-308, AND 50-6-313 THROUGH 50-6-316, MCA;
10 REPEALING SECTIONS 50-6-303, 50-6-305, 50-6-309, AND
11 50-6-312, MCA; AND PROVIDING EFFECTIVE DATES."
12

13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because
15 [section 3] grants authority to the department of health and
16 environmental sciences to adopt rules necessary to carry out
17 the provisions of Title 50, chapter 6, part 3.

18 In adopting rules, the department should consider the
19 following:

20 (1) It is the intent of the legislature that the
21 department adopt rules to regulate emergency medical
22 services. These rules may include minimum licensing
23 standards for various types and levels of prehospital and
24 interhospital emergency medical services. The rules may
25 also include other requirements to assure the quality,

1 safety, and proper operation of emergency medical services
2 in Montana.

3 (2) In addition to rules governing operation of ground
4 ambulance services, which are currently regulated, it is
5 intended that the department adopt rules to regulate other
6 types of emergency medical transportation and treatment
7 services not currently subject to regulation by the
8 department. Examples of such services include air ambulance
9 services (both fixed-wing airplane and helicopter service)
10 and nontransporting medical units.

11 (3) It is further intended that the department adopt
12 rules to regulate various levels of emergency services that
13 have evolved in recent years (such as basic life support,
14 defibrillation, and advanced life support) without minimum
15 standards, rules, or licensing to assure the health and
16 safety of the public. Rules to regulate these various levels
17 of service should recognize the differences in personnel,
18 equipment, and operational requirements for each type and
19 level of service.

20 (4) The department should assure minimum statewide
21 standards for prehospital emergency medical care; however,
22 the rules should not be so stringent that the provision of
23 emergency medical care in smaller communities will be made
24 unreasonably difficult or expensive. If a licensed
25 emergency medical service is not reasonably available,

department rules should not preclude the occasional and infrequent transportation of patients by other means available. Nevertheless, rules should not conflict with any regulations issued by a federal agency, such as the federal aviation administration.

(5) The legislature intends that the department establish an advisory committee to make recommendations to the department or to the board of health and environmental sciences concerning matters described in [section 12]. Creation of this committee and its composition should be established by rule. Any such rule adopted by the department should assure that persons actively providing emergency medical care be included as members of the committee.

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

Section 1. Section 50-6-301, MCA, is amended to read:

"50-6-301. Findings and purposes. The legislature finds and declares that:

(1) the public welfare requires the establishment of minimum uniform standards for the operation of ambulance emergency medical services, as defined in 50-6-302, and;

(2) the control, inspection, and regulation of persons engaged therein in order providing emergency medical services is necessary to prevent or eliminate improper care that may endanger the health of the public; and

(3) The the regulation of establishments providing such service emergency medical care services is in the interest of the social well-being and the health and safety of the state and all its people."

Section 2. Section 50-6-302, MCA, is amended to read:

"50-6-302. Definitions. Unless As used in this part, unless the context requires otherwise, in--this--part the following definitions apply:

(1) "Aircraft" has the same meaning given in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is--especially--designed, constructed,--and--equipped--which is maintained and used for the transportation of patients,--including--dual--purpose police--patrol--cars--and--funeral--coaches--or--hearses--which otherwise--comply--with--this--part,--but, The term does not include a motor vehicle or aircraft owned by or operated under the direct control of the United States or--this--state.

(2)--"Ambulance--service"--means--a--person--who--operates--an ambulance;

(3)--"Attendant"--means--a--trained--or--otherwise--qualified individual--responsible--for--the--operation--of--an--ambulance--and the--care--of--the--patients--whether--or--not--the--attendant--also serves--as--driver;

(4)--"Attendant-driver"--means--a--person--who--is--qualified

~~as an attendant and a driver.~~

~~{5}{3} "Board" means the board of health and environmental sciences, provided for in 2-15-2104.~~

~~{6}{4} "Department" means the department of health and environmental sciences, provided for in Title 2, chapter 15, part 21.~~

~~{7}--"Driver"---means---an---individual--who--drives--an ambulance.~~

~~{8}--"Dual-purpose police patrol car"--means--a--vehicle operated--by--a--police--department--which-is-equipped-as-an ambulance,--even-though-it-is-also-used-for-patrol--or--other police-purposes.~~

(5) "Emergency medical service" means a prehospital or interhospital emergency medical transportation or treatment service provided by an ambulance or nontransporting medical unit.

(6) "Medical control" means the function of a licensed physician in providing direction, advice, or orders to an emergency medical service provider.

(7) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department rule but may not transport patients.

~~{9}{8} "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless. The term does not include a person who is nonambulatory and who needs transportation assistance solely because that person is confined to a wheelchair as his usual means of mobility.~~

~~{10}{9} "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States or this state."~~

NEW SECTION. Section 3. Powers and duties of department. (1) The department has general authority to supervise and regulate emergency medical services in Montana.

(2) The department shall receive and investigate complaints relating to the operation of any emergency medical service, including complaints concerning:

(a) patient care provided by an emergency medical service;

(b) the condition of any vehicle or aircraft used as an ambulance; or

(c) individual performance by an emergency medical service provider.

(3) Upon completion of an investigation as provided in

1 subsection (2), the department shall take appropriate
2 action, including the institution of necessary legal
3 proceedings, as authorized under this part.

4 (4) In order to carry out the provisions of this part,
5 the department shall prescribe and enforce rules for
6 emergency medical services. Rules of the department may
7 include but are not limited to the following:

8 (a) the classification and identification of specific
9 types and levels of prehospital and interhospital medical
10 transportation or treatment services;

11 (b) procedures for issuing, denying, renewing, and
12 canceling licenses;

13 (c) minimum licensing standards for each type and level
14 of service, including requirements for personnel, medical
15 control, maintenance, equipment, reporting, recordkeeping,
16 sanitation, and minimum insurance coverage as determined
17 appropriate by the department; and

18 (d) other requirements necessary and appropriate to
19 assure the quality, safety, and proper operation and
20 administration of emergency medical services.

21 (5) A rule under this section is not effective until:

22 (a) a public hearing has been held for review of the
23 rule; and

24 (b) notice of the public hearing and a copy of the
25 proposed rules have been sent to all persons licensed under

1 50-6-306 to conduct or operate an emergency medical service.
2 Notice must be sent at least 30 days prior to the date of
3 the public hearing.

4 **Section 4.** Section 50-6-304, MCA, is amended to read:

5 "50-6-304. Cooperative agreements -- gifts, grants, and
6 donations. (1) The department may enter into cooperative
7 agreements with any of the state agencies or political
8 subdivisions for the purpose of carrying out the provisions
9 of this part or any part thereof.

10 (2) The department may accept and administer any gift,
11 grant, or donation of funds to carry out the purposes of
12 this part."

13 **Section 5.** Section 50-6-306, MCA, is amended to read:

14 "50-6-306. License required. (1) Every A person
15 conducting--or--operating--an--ambulance may not conduct or
16 operate an emergency medical service shall--procure without
17 first obtaining a license issued by from the department. A
18 separate license shall-be is required for each establishment
19 type and level of service.

20 (2) Applications for a license shall must be made in
21 writing to the department on forms specified by the
22 department.

23 {3}--Licenses shall be granted--as--a--matter--of--right
24 unless--conditions exist as specified by this part which are
25 grounds for a cancellation or denial of a license.

~~(4) The applicant may apply for a hearing and judicial review as specified by this part upon being denied a license or upon cancellation.~~

~~(5)(3) Each license shall expire on December 31 following its date of issue unless canceled for cause must be issued for a specific term not to exceed 2 years.~~ Renewal may be obtained by paying the required ~~annual~~ license fee and demonstrating compliance with department rules.

~~(6)(4) The license shall is not be transferable or be applicable to any premises other than that for which originally issued.~~

Section 6. Section 50-6-307, MCA, is amended to read:

"50-6-307. License fee. (1) There ~~shall~~ must be paid to the department, with each application for a license or for renewal of a license, ~~an annual~~ a license fee of \$35.

(2) The department shall deposit fees with the state treasurer to the credit of the state general fund.

(3) Payment of the license fee stipulated in this part ~~shall~~ must be accepted in lieu of any and all existing state fees and charges for like purposes or intent which may be existent prior to the adoption of this part."

Section 7. Section 50-6-308, MCA, is amended to read:

"50-6-308. Cancellation of license. The department may cancel a license if it finds that the licensee has:

(1) violated provisions any provision of or rules

adopted under this part or any rule of the department or order of the department or board; and

(2) ~~the licensee has~~ failed or refused to remedy or correct the violation."

NEW SECTION. Section 8. Waiver of licensing requirements (1) The department may waive any licensing requirements under this part upon submission and approval of a written application for waiver by a person subject to licensing under this part.

(2) The department may waive a licensing requirement if the person provides sufficient justification to allow a finding by the department that:

(a) the waiver is necessary to avoid significant financial or other hardship; and

(b) granting the waiver would not jeopardize patient care or the public health and safety.

(3) A waiver must be issued on a temporary basis, not exceeding 6 months, and may be renewed by the department upon submission and approval of an additional application for waiver of licensing requirements.

(4) A waiver granted by the department may be revoked for good cause after notice and an opportunity for a hearing before the department have been provided to the person affected by the department's action.

(5) The decision of the department to deny or revoke a

1 waiver under this section may be appealed to the board.

2 **Section 9.** Section 50-6-313, MCA, is amended to read:

3 "50-6-313. Inspections. (1) The department shall make
4 necessary investigations and inspections for enforcement of
5 this part.

6 (2) The department shall make regular inspections as
7 the rules of the department may direct and special
8 inspections which ~~the department may consider~~ it considers
9 necessary.

10 (3) The department has free access at all reasonable
11 hours to ~~the establishments listed and defined in 50-6-302~~
12 the place of business of any person operating an emergency
13 medical service in order to make necessary inspections.
14 These inspections may include the inspection of any
15 equipment or records pertaining to the activities of the
16 emergency medical service.

17 (4) A person may not refuse entry or access to an
18 authorized representative of the department who presents
19 appropriate credentials and requests entry for the purpose
20 of conducting an inspection necessitated under this section.
21 A person may not obstruct, hamper, or interfere with an
22 inspection that is properly conducted pursuant to this
23 section.

24 (5) Upon request, the owner or operator of an emergency
25 medical service must receive a report stating all facts that

1 relate to his compliance with the provisions of this part as
2 determined by the department, based upon its inspection."

3 **NEW SECTION. Section 10.** Injunction to require
4 compliance. (1) The department may seek an injunction from
5 an appropriate district court to require compliance with
6 this part or to require compliance with a rule of the
7 department or an order issued by the department or board.
8 The court to which the department applies for an injunction
9 may issue a temporary restraining order if there is
10 reasonable cause to believe that the allegations of the
11 department are true.

12 (2) An action for injunctive relief initiated by the
13 department pursuant to subsection (1) may be commenced in
14 the district court of the county in which the defendant is
15 located, resides, or is doing business. If the defendant
16 cannot be located in Montana, the action may be commenced in
17 the county where the violation is alleged to occur or have
18 occurred, and the court has jurisdiction to restrain the
19 violation and require compliance.

20 **NEW SECTION. Section 11.** Administrative enforcement.
21 (1) If the department believes that there is a violation of
22 this part or a violation of a rule of the department, it may
23 serve notice of the violation upon the alleged violator or
24 his agent. Service of notice must be by certified mail and
25 is complete on the date of mailing.

(2) Notice required under subsection (1) must:

(a) specify the provision of this part or the rule alleged to be violated;

(b) contain a statement of the facts alleged to constitute a violation; and

(c) include an order that the alleged violator take necessary corrective action within a reasonable period of time as stated in the order. The order may include corrective action, such as decertification of a specific vehicle or aircraft from use as an ambulance or restriction on the use of a specific individual or type of or level of service in providing emergency medical service.

(3) An order issued pursuant to subsection (2) becomes final unless the person named in the order requests a hearing before the board. Such request for a hearing must be made in writing to the board at least 30 days after the date of service of notice of an alleged violation. On receipt of the request, the board shall schedule a date for a hearing.

(4) If, after a hearing, the board finds that a violation has occurred, it shall either affirm or modify the order issued by the department. An order issued by the board may prescribe the date by which the violation must cease and may prescribe time limits for corrective action. If, after a hearing, the board finds no violation has occurred, it shall rescind the department's order.

NEW SECTION. Section 12. Advisory committee. (1) The

board or department may establish an advisory committee to assist in making determinations regarding:

(a) a request for waiver of licensing requirements as provided in [section 8];

(b) the resolution of a complaint as described in [section 3]; and

(c) issuance of an order authorized under this part.

(2) The advisory committee must be established pursuant to rules adopted by the department.

Section 13. Section 50-6-314, MCA, is amended to read:

"50-6-314. Authority of board or department to compel and take testimony. In any proceeding under this part, the board or department may administer oaths, issue subpoenas, summon witnesses, and take testimony of any person within the state."

Section 14. Section 50-6-315, MCA, is amended to read:

"50-6-315. County attorney to prosecute violations. When the department furnishes evidence to the county attorney of a county in this state, the county attorney shall prosecute any person violating this part or the--rules adopted--under-this-part any rule of the department or order issued by the department or board."

Section 15. Section 50-6-316, MCA, is amended to read:

"50-6-316. Penalty Criminal penalties. Any person

1 violating any provision of this part or ~~regulation--made~~
 2 hereunder any rule of the department or order issued by the
 3 department or board shall be guilty of a misdemeanor and
 4 upon conviction shall be fined not less than \$50 or more
 5 than \$100 for the first offense, not less than \$75 or more
 6 than \$200 for the second offense, and for third and
 7 subsequent offenses, not less than \$200 or more than \$500 or
 8 imprisoned in the county jail not to exceed 90 days."

9 NEW SECTION. Section 16. Civil penalties. (1) A person
 10 who violates any provision of this part or any rule of the
 11 department or order issued by the department or board is
 12 subject to a civil penalty not to exceed \$1,000 for each
 13 violation. Each day of violation constitutes a separate
 14 violation.

15 (2) An action commenced under this section does not bar
 16 administrative enforcement of this part as provided in
 17 [section 11] or an injunction as provided in [section 10].

18 (3) If the department has reason to believe that a
 19 person has violated any provision of this part or any rule
 20 of the department or order issued by the department or
 21 board, it shall bring an action in the name of the state
 22 against such person to impose, assess, and recover the civil
 23 penalties as provided in subsection (1).

24 (4) Any civil penalty collected under this section is
 25 in lieu of the criminal penalty provided for in 50-6-316.

1 (5) All penalties collected under this section must be
 2 transmitted to the state treasurer for deposit in the state
 3 general fund.

4 NEW SECTION. Section 17. Repealer. Sections 50-6-303,
 5 50-6-305, 50-6-309, and 50-6-312, MCA, are repealed.

6 NEW SECTION. Section 18. Codification instruction.
 7 [Sections 3, 8, 10 through 12, and 16] are intended to be
 8 codified as an integral part of Title 50, chapter 6, part 3,
 9 and the provisions of Title 50, chapter 6, part 3, apply to
 10 [sections 3, 8, 10 through 12, and 16].

11 NEW SECTION. Section 19. Saving clause. [This act]
 12 does not affect rights and duties that matured, penalties
 13 that were incurred, or proceedings that were begun before
 14 [the effective date of this act].

15 NEW SECTION. Section 20. Severability. If a part of
 16 [this act] is invalid, all valid parts that are severable
 17 from the invalid part remain in effect. If a part of [this
 18 act] is invalid in one or more of its applications, the part
 19 remains in effect in all valid applications that are
 20 severable from the invalid applications.

21 NEW SECTION. Section 21. Effective dates. (1) [Section
 22 3 and this section] are effective on passage and approval.

23 (2) [Sections 1, 2, and 4 through 20] are effective
 24 January 1, 1990.

-End-

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 407

INTRODUCED BY JACOBSON, NORMAN, WALKER,

MANNING, ECK, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF HEALTH AND

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A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
CLARIFY THE LAWS RELATING TO EMERGENCY MEDICAL SERVICES;
AMENDING SECTIONS 50-6-301, 50-6-302, 50-6-304, 50-6-306
THROUGH 50-6-308, AND 50-6-313 THROUGH 50-6-316, MCA;
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STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 3] grants authority to the department of health and
environmental sciences to adopt rules necessary to carry out
the provisions of Title 50, chapter 6, part 3.

In adopting rules, the department should consider the
following:

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ambulance services, which are currently regulated, it is
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services not currently subject to regulation by the
department. Examples of such services include air ambulance
services ~~{both--fixed-wing-airplane-and-helicopter-service}~~
and--nontransporting--medical--units, SUCH AS FIXED-WING
AIRCRAFT WHICH PROVIDE LIFE SUPPORT SERVICES, INCLUDING
MEDICAL PERSONNEL AND MEDICAL EQUIPMENT; INITIAL RESPONSE
ROTARY-WING AIRCRAFT; AND NONTRANSPORTING MEDICAL UNITS. THE
DEPARTMENT SHALL EXCLUDE FROM REGULATION AIR TRANSPORTATION
SERVICES, SUCH AS CHARTER OR FIXED-BASED OPERATORS,
REGULATED BY THE FEDERAL AVIATION ADMINISTRATION THAT OFFER
NO SPECIAL MEDICAL SERVICES OR PROVIDE ONLY TRANSPORTATION
TO PATIENTS OR PERSONS AT THE DIRECTION OR UNDER THE
SUPERVISION OF AN INDEPENDENT PHYSICIAN.

(3) It is further intended that the department adopt
rules to regulate various levels of emergency services that
have evolved in recent years (such as basic life support,
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Section 1. Section 50-6-301, MCA, is amended to read:

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1 ~~otherwise-comply-with-this-part,--but.~~ The term does not
 2 include a motor vehicle or aircraft owned by or operated
 3 under the direct control of the United States ~~or this state.~~
 4 THE TERM ALSO DOES NOT INCLUDE AIR TRANSPORTATION SERVICES,
 5 SUCH AS CHARTER OR FIXED-BASED OPERATORS, REGULATED BY THE
 6 FEDERAL AVIATION ADMINISTRATION THAT OFFER NO SPECIAL
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22 **and donations.** (1) The department may enter into cooperative
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24 subdivisions for the purpose of carrying out the provisions
25 of this part ~~or any part thereof.~~

(2) The department may accept and administer any gift, grant, or donation of funds to carry out the purposes of this part.

Section 5. Section 50-6-306, MCA, is amended to read:

"50-6-306. License required. (1) Every A person ~~conducting or operating an ambulance~~ may not conduct or operate an emergency medical service ~~shall procure without first obtaining a license issued by from~~ the department. A separate license ~~shall be~~ is required for each establishment type and level of service.

(2) Applications for a license ~~shall~~ must be made in writing to the department on forms specified by the department.

~~{3}--Licenses--shall--be--granted--as--a--matter--of--right unless conditions exist as specified by this part which are grounds for a cancellation or denial of a license--~~

~~{4}--The applicant may apply for a hearing and judicial review as specified by this part upon being denied a license or upon cancellation--~~

~~{5}{3}~~ Each license ~~shall--expire--on--December--31 following its date of issue unless canceled for--cause~~ must be issued for a specific term not to exceed 2 years. Renewal may be obtained by paying the required annual license fee and demonstrating compliance with department rules.

~~{6}{4}~~ The license ~~shall~~ is not be transferable or--be

~~applicable--to--any--premises--other--than--that--for--which originally issued.~~

Section 6. Section 50-6-307, MCA, is amended to read:

"50-6-307. License fee. (1) There ~~shall~~ must be paid to the department, with each application for a license or for renewal of a license, ~~an annual~~ a license fee of \$35.

(2) The department shall deposit fees with the state treasurer to the credit of the state general fund.

(3) Payment of the license fee stipulated in this part ~~shall~~ must be accepted in lieu of any and all existing state fees and charges for like purposes or intent which may be existent prior to the adoption of this part."

Section 7. Section 50-6-308, MCA, is amended to read:

"50-6-308. Cancellation of license. The department may cancel a license if it finds that the licensee has:

(1) violated provisions any provision of or--rules adopted--under this part or any rule of the department or order of the department or board; and

(2) the licensee has failed or refused to remedy or correct the violation."

NEW SECTION. Section 8. Waiver of licensing requirements (1) The department may waive any licensing requirements under this part upon submission and approval of a written application for waiver by a person subject to licensing under this part.

(2) The department may waive a licensing requirement if the person provides sufficient justification to allow a finding by the department that:

(a) the waiver is necessary to avoid significant financial or other hardship; and

(b) granting the waiver would not jeopardize patient care or the public health and safety.

(3) A waiver must be issued on a temporary basis, not exceeding 6 months, and may be renewed by the department upon submission and approval of an additional application for waiver of licensing requirements.

(4) A waiver granted by the department may be revoked for good cause after notice and an opportunity for a hearing before the department have been provided to the person affected by the department's action.

(5) The decision of the department to deny or revoke a waiver under this section may be appealed to the board.

Section 9. Section 50-6-313, MCA, is amended to read:

***50-6-313. Inspections.** (1) The department shall make necessary investigations and inspections for enforcement of this part.

(2) The department shall make regular inspections as the rules of the department may direct and special inspections which ~~the department may consider~~ it considers necessary.

(3) The department has free access at all reasonable hours to ~~the establishments listed and defined in 50-6-302~~ the place of business of any person operating an emergency medical service in order to make necessary inspections. These inspections may include the inspection of any equipment or records pertaining to the activities of the emergency medical service.

(4) A person may not refuse entry or access to an authorized representative of the department who presents appropriate credentials and requests entry for the purpose of conducting an inspection necessitated under this section. A person may not obstruct, hamper, or interfere with an inspection that is properly conducted pursuant to this section.

(5) Upon request, the owner or operator of an emergency medical service must receive a report stating all facts that relate to his compliance with the provisions of this part as determined by the department, based upon its inspection."

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1 may issue a temporary restraining order if there is
2 reasonable cause to believe that the allegations of the
3 department are true.

4 (2) An action for injunctive relief initiated by the
5 department pursuant to subsection (1) may be commenced in
6 the district court of the county in which the defendant is
7 located, resides, or is doing business. If the defendant
8 cannot be located in Montana, the action may be commenced in
9 the county where the violation is alleged to occur or have
10 occurred, and the court has jurisdiction to restrain the
11 violation and require compliance.

12 **NEW SECTION. Section 11. Administrative enforcement.**

13 (1) If the department believes that there is a violation of
14 this part or a violation of a rule of the department, it may
15 serve notice of the violation upon the alleged violator or
16 his agent. Service of notice must be by certified mail and
17 is complete on the date of mailing.

18 (2) Notice required under subsection (1) must:

19 (a) specify the provision of this part or the rule
20 alleged to be violated;

21 (b) contain a statement of the facts alleged to
22 constitute a violation; and

23 (c) include an order that the alleged violator take
24 necessary corrective action within a reasonable period of
25 time as stated in the order. The order may include

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2 vehicle or aircraft from use as an ambulance or restriction
3 on the use of a specific individual or type of or level of
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5 (3) An order issued pursuant to subsection (2) becomes
6 final unless the person named in the order requests a
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17 rescind the department's order.

18 **NEW SECTION. Section 12. Advisory committee.** (1) The
19 board or department may establish an advisory committee to
20 assist in making determinations regarding:

21 (a) a request for waiver of licensing requirements as
22 provided in [section 8];

23 (b) the resolution of a complaint as described in
24 [section 3]; and

25 (c) issuance of an order authorized under this part.

(2) The advisory committee must be established pursuant to rules adopted by the department.

Section 13. Section 50-6-314, MCA, is amended to read:

"50-6-314. Authority of board or department to compel and take testimony. In any proceeding under this part, the board or department may administer oaths, issue subpoenas, summon witnesses, and take testimony of any person within the state."

Section 14. Section 50-6-315, MCA, is amended to read:

"50-6-315. County attorney to prosecute violations. When the department furnishes evidence to the county attorney of a county in this state, the county attorney shall prosecute any person violating this part or ~~the--rules adopted--under-this-part~~ any rule of the department or order issued by the department or board."

Section 15. Section 50-6-316, MCA, is amended to read:

"50-6-316. Penalty Criminal penalties. Any person violating any provision of this part or ~~regulation-made hereunder~~ any rule of the department or order issued by the department or board shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50 or more than \$100 for the first offense, not less than \$75 or more than \$200 for the second offense, and for third and subsequent offenses, not less than \$200 or more than \$500 or imprisoned in the county jail not to exceed 90 days."

NEW SECTION. Section 16. Civil penalties. (1) A person who violates any provision of this part or any rule of the department or order issued by the department or board is subject to a civil penalty not to exceed \$1,000 for each violation. Each day of violation constitutes a separate violation.

(2) An action commenced under this section does not bar administrative enforcement of this part as provided in [section 11] or an injunction as provided in [section 10].

(3) If the department has reason to believe that a person has violated any provision of this part or any rule of the department or order issued by the department or board, it shall bring an action in the name of the state against such person to impose, assess, and recover the civil penalties as provided in subsection (1).

(4) Any civil penalty collected under this section is in lieu of the criminal penalty provided for in 50-6-316.

(5) All penalties collected under this section must be transmitted to the state treasurer for deposit in the state general fund.

NEW SECTION. Section 17. Repealer. Sections 50-6-303, 50-6-305, 50-6-309, and 50-6-312, MCA, are repealed.

NEW SECTION. Section 18. Codification instruction. [Sections 3, 8, 10 through 12, and 16] are intended to be codified as an integral part of Title 50, chapter 6, part 3,

1 and the provisions of Title 50, chapter 6, part 3, apply to
2 [sections 3, 8, 10 through 12, and 16].

3 NEW SECTION. Section 19. Saving clause. [This act]
4 does not affect rights and duties that matured, penalties
5 that were incurred, or proceedings that were begun before
6 [the effective date of this act].

7 NEW SECTION. Section 20. Severability. If a part of
8 [this act] is invalid, all valid parts that are severable
9 from the invalid part remain in effect. If a part of [this
10 act] is invalid in one or more of its applications, the part
11 remains in effect in all valid applications that are
12 severable from the invalid applications.

13 NEW SECTION. Section 21. Effective dates. (1)
14 [Section 3 and this section] are effective on passage and
15 approval.

16 (2) [Sections 1, 2, and 4 through 20] are effective
17 January 1, 1990.

-End-

1 SENATE BILL NO. 407

2 INTRODUCED BY JACOBSON, NORMAN, WALKER,

3 MANNING, ECK, VAN VALKENBURG

4 BY REQUEST OF THE DEPARTMENT OF HEALTH AND

5 ENVIRONMENTAL SCIENCES

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
8 CLARIFY THE LAWS RELATING TO EMERGENCY MEDICAL SERVICES;
9 AMENDING SECTIONS 50-6-301, 50-6-302, 50-6-304, 50-6-306
10 THROUGH 50-6-308, AND 50-6-313 THROUGH 50-6-316, MCA;
11 REPEALING SECTIONS 50-6-303, 50-6-305, 50-6-309, AND
12 50-6-312, MCA; AND PROVIDING EFFECTIVE DATES."

13
14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 [section 3] grants authority to the department of health and
17 environmental sciences to adopt rules necessary to carry out
18 the provisions of Title 50, chapter 6, part 3.

19 In adopting rules, the department should consider the
20 following:

21 (1) It is the intent of the legislature that the
22 department adopt rules to regulate emergency medical
23 services. These rules may include minimum licensing
24 standards for various types and levels of prehospital and
25 interhospital emergency medical services. The rules may

There is no change on SB 407 and will not
be reprinted. Please refer to second reading
(yellow) for complete text.

SENATE BILL NO. 407

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MANNING, ECK, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF HEALTH AND

ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO EMERGENCY MEDICAL SERVICES; AMENDING SECTIONS 50-6-301, 50-6-302, 50-6-304, 50-6-306 THROUGH 50-6-308, AND 50-6-313 THROUGH 50-6-316, MCA; REPEALING SECTIONS 50-6-303, 50-6-305, 50-6-309, AND 50-6-312, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 3] grants authority to the department of health and environmental sciences to adopt rules necessary to carry out the provisions of Title 50, chapter 6, part 3.

In adopting rules, the department should consider the following:

(1) It is the intent of the legislature that the department adopt rules to regulate emergency medical services. These rules may include minimum licensing standards for various types and levels of prehospital and interhospital emergency medical services. The rules may

also include other requirements to assure the quality, safety, and proper operation of emergency medical services in Montana.

(2) In addition to rules governing operation of ground ambulance services, which are currently regulated, it is intended that the department adopt rules to regulate other types of emergency medical transportation and treatment services not currently subject to regulation by the department. Examples of such services include air ambulance services ~~{both--fixed-wing-airplane-and-helicopter-service}~~ and--nontransporting--medical--units, SUCH AS FIXED-WING AIRCRAFT WHICH PROVIDE LIFE SUPPORT SERVICES, INCLUDING MEDICAL PERSONNEL AND MEDICAL EQUIPMENT; INITIAL RESPONSE ROTARY-WING AIRCRAFT; AND NONTRANSPORTING MEDICAL UNITS. THE DEPARTMENT SHALL EXCLUDE FROM REGULATION AIR TRANSPORTATION SERVICES, SUCH AS CHARTER OR FIXED-BASED OPERATORS, REGULATED BY THE FEDERAL AVIATION ADMINISTRATION THAT OFFER NO SPECIAL MEDICAL SERVICES OR PROVIDE ONLY TRANSPORTATION TO PATIENTS OR PERSONS AT THE DIRECTION OR UNDER THE SUPERVISION OF AN INDEPENDENT PHYSICIAN.

(3) It is further intended that the department adopt rules to regulate various levels of emergency services that have evolved in recent years (such as basic life support, defibrillation, and advanced life support) without minimum standards, rules, or licensing to assure the health and

1 safety of the public. Rules to regulate these various levels
2 of service should recognize the differences in personnel,
3 equipment, and operational requirements for each type and
4 level of service.

5 (4) The department should assure minimum statewide
6 standards for prehospital emergency medical care; however,
7 the rules should not be so stringent that the provision of
8 emergency medical care in smaller communities will be made
9 unreasonably difficult or expensive. If a licensed
10 emergency medical service is not reasonably available,
11 department rules should not preclude the occasional and
12 infrequent transportation of patients by other means
13 available. Nevertheless, rules should not conflict with any
14 regulations issued by a federal agency, such as the federal
15 aviation administration.

16 (5) The legislature intends that the department
17 establish an advisory committee to make recommendations to
18 the department or to the board of health and environmental
19 sciences concerning matters described in [section 12].
20 Creation of this committee and its composition should be
21 established by rule. Any such rule adopted by the department
22 should assure that persons actively providing emergency
23 medical care be included as members of the committee.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **Section 1.** Section 50-6-301, MCA, is amended to read:

2 **"50-6-301. Findings and--purposes.** The legislature
3 finds and declares that:

4 (1) the public welfare requires the establishment of
5 minimum uniform standards for the operation of ambulance
6 emergency medical services;--as-defined-in-50-6-302;--and;

7 (2) the control, inspection, and regulation of persons
8 engaged---therein---in--order providing emergency medical
9 services is necessary to prevent or eliminate improper care
10 that may endanger the health of the public; and

11 (3) The the regulation of establishments-providing
12 such-service emergency medical care services is in the
13 interest of the social well-being and the health and safety
14 of the state and all its people."

15 **Section 2.** Section 50-6-302, MCA, is amended to read:

16 **"50-6-302. Definitions.** Unless As used in this part,
17 unless the context requires otherwise, in--this--part the
18 following definitions apply:

19 (1) "Aircraft" has the same meaning given in 67-1-101.
20 The term includes any fixed-wing airplane or helicopter.

21 {1} (2) "Ambulance" means a privately or publicly owned
22 motor vehicle or aircraft that is--especially-designed;
23 constructed;--and-equipped-which is maintained and used for
24 the transportation of patients;--including--dual--purpose
25 police-patrol-cars-and--funerat--coaches--or--hearses--which

1 otherwise-comply-with-this-part,--but. The term does not
 2 include a motor vehicle or aircraft owned by or operated
 3 under the direct control of the United States or this state.
 4 THE TERM ALSO DOES NOT INCLUDE AIR TRANSPORTATION SERVICES,
 5 SUCH AS CHARTER OR FIXED-BASED OPERATORS, REGULATED BY THE
 6 FEDERAL AVIATION ADMINISTRATION THAT OFFER NO SPECIAL
 7 MEDICAL SERVICES OR PROVIDE ONLY TRANSPORTATION TO PATIENTS
 8 OR PERSONS AT THE DIRECTION OR UNDER THE SUPERVISION OF AN
 9 INDEPENDENT PHYSICIAN.

10 {2}--"Ambulance-service"--means-a-person-who-operates-an
 11 ambulance-

12 {3}--"Attendant"--means-a-trained-or-otherwise-qualified
 13 individual-responsible-for-the-operation-of-an-ambulance-and
 14 the--care--of-the-patients-whether-or-not-the-attendant-also
 15 serves-as-driver-

16 {4}--"Attendant-driver"--means-a-person-who-is-qualified
 17 as-an-attendant-and-a-driver-

18 {5}{3} "Board" means the board of health and
 19 environmental sciences, provided for in 2-15-2104.

20 {6}{4} "Department" means the department of health and
 21 environmental sciences, provided for in Title 2, chapter 15,
 22 part 21.

23 {7}--"Driver"--means---an--individual--who--drives--an
 24 ambulance-

25 {8}--"Dual-purpose-police-patrol-car"--means--a--vehicle

1 operated-by-a-police-department--which--is--equipped--as--an
 2 ambulance,--even--though-it-is-also-used-for-patrol-or-other
 3 police-purposes-

4 (5) "Emergency medical service" means a prehospital or
 5 interhospital emergency medical transportation or treatment
 6 service provided by an ambulance or nontransporting medical
 7 unit.

8 (6) "Medical control" means the function of a licensed
 9 physician in providing direction, advice, or orders to an
 10 emergency medical service provider.

11 (7) "Nontransporting medical unit" means an aggregate
 12 of persons who are organized to respond to a call for
 13 emergency medical service and to treat a patient until the
 14 arrival of an ambulance. Nontransporting medical units
 15 provide any one of varying types and levels of service
 16 defined by department rule but may not transport patients.

17 {9}{8} "Patient" means an individual who is sick,
 18 injured, wounded, or otherwise incapacitated or helpless.
 19 The term does not include a person who is nonambulatory and
 20 who needs transportation assistance solely because that
 21 person is confined to a wheelchair as his usual means of
 22 mobility.

23 {10}{9} "Person" means an individual, firm,
 24 partnership, association, corporation, company, group of
 25 individuals acting together for a common purpose, or

1 organization of any kind, including a governmental agency
2 other than the United States or this state."

3 **NEW SECTION. Section 3. Powers and duties of**
4 **department. (1) The department has general authority to**
5 **supervise and regulate emergency medical services in**
6 **Montana.**

7 (2) The department shall receive and investigate
8 complaints relating to the operation of any emergency
9 medical service, including complaints concerning:

10 (a) patient care provided by an emergency medical
11 service;

12 (b) the condition of any vehicle or aircraft used as
13 an ambulance; or

14 (c) individual performance by an emergency medical
15 service provider.

16 (3) Upon completion of an investigation as provided in
17 subsection (2), the department shall take appropriate
18 action, including the institution of necessary legal
19 proceedings, as authorized under this part.

20 (4) In order to carry out the provisions of this part,
21 the department shall prescribe and enforce rules for
22 emergency medical services. Rules of the department may
23 include but are not limited to the following:

24 (a) the classification and identification of specific
25 types and levels of prehospital and interhospital medical

1 transportation or treatment services;

2 (b) procedures for issuing, denying, renewing, and
3 canceling licenses;

4 (c) minimum licensing standards for each type and
5 level of service, including requirements for personnel,
6 medical control, maintenance, equipment, reporting,
7 recordkeeping, sanitation, and minimum insurance coverage as
8 determined appropriate by the department; and

9 (d) other requirements necessary and appropriate to
10 assure the quality, safety, and proper operation and
11 administration of emergency medical services.

12 (5) A rule under this section is not effective until:

13 (a) a public hearing has been held for review of the
14 rule; and

15 (b) notice of the public hearing and a copy of the
16 proposed rules have been sent to all persons licensed under
17 50-6-306 to conduct or operate an emergency medical service.
18 Notice must be sent at least 30 days prior to the date of
19 the public hearing.

20 **Section 4. Section 50-6-304, MCA, is amended to read:**

21 **"50-6-304. Cooperative agreements -- gifts, grants,**
22 **and donations. (1) The department may enter into cooperative**
23 **agreements with any of the state agencies or political**
24 **subdivisions for the purpose of carrying out the provisions**
25 **of this part or any part thereof.**

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 2 grant, or donation of funds to carry out the purposes of
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 9 separate license shall-be is required for each establishment
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 12 writing to the department on forms specified by the
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14 ~~{3}--licenses--shall--be--granted--as-a-matter-of-right~~
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 18 ~~review-as-specified-by-this-part-upon-being-denied-a-license~~
 19 ~~or-upon-cancellation-~~

20 ~~{5}{3} Each license shall--expire--on--December--31~~
 21 ~~following-its-date-of-issue-unless-canceled-for--cause must~~
 22 ~~be issued for a specific term not to exceed 2 years. Renewal~~
 23 ~~may be obtained by paying the required annual license fee~~
 24 ~~and demonstrating compliance with department rules.~~

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5 financial or other hardship; and

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7 care or the public health and safety.

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25 The court to which the department applies for an injunction

1 may issue a temporary restraining order if there is
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3 department are true.

4 (2) An action for injunctive relief initiated by the
5 department pursuant to subsection (1) may be commenced in
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Section 14. Section 50-6-315, MCA, is amended to read:

"50-6-315. County attorney to prosecute violations. When the department furnishes evidence to the county attorney of a county in this state, the county attorney shall prosecute any person violating this part or the--rules adopted--under-this-part any rule of the department or order issued by the department or board."

Section 15. Section 50-6-316, MCA, is amended to read:

"50-6-316. Penalty Criminal penalties. Any person violating any provision of this part or regulation-made hereunder any rule of the department or order issued by the department or board shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50 or more than \$100 for the first offense, not less than \$75 or more than \$200 for the second offense, and for third and subsequent offenses, not less than \$200 or more than \$500 or imprisoned in the county jail not to exceed 90 days."

NEW SECTION. Section 16. Civil penalties. (1) A person who violates any provision of this part or any rule of the department or order issued by the department or board is subject to a civil penalty not to exceed \$1,000 for each violation. Each day of violation constitutes a separate violation.

(2) An action commenced under this section does not bar administrative enforcement of this part as provided in [section 11] or an injunction as provided in [section 10].

(3) If the department has reason to believe that a person has violated any provision of this part or any rule of the department or order issued by the department or board, it shall bring an action in the name of the state against such person to impose, assess, and recover the civil penalties as provided in subsection (1).

(4) Any civil penalty collected under this section is in lieu of the criminal penalty provided for in 50-6-316.

(5) All penalties collected under this section must be transmitted to the state treasurer for deposit in the state general fund.

NEW SECTION. Section 17. Repealer. Sections 50-6-303, 50-6-305, 50-6-309, and 50-6-312, MCA, are repealed.

NEW SECTION. Section 18. Codification instruction. [Sections 3, 8, 10 through 12, and 16] are intended to be codified as an integral part of Title 50, chapter 6, part 3,

1 and the provisions of Title 50, chapter 6, part 3, apply to
2 [sections 3, 8, 10 through 12, and 16].

3 NEW SECTION. Section 19. Saving clause. [This act]
4 does not affect rights and duties that matured, penalties
5 that were incurred, or proceedings that were begun before
6 [the effective date of this act].

7 NEW SECTION. Section 20. Severability. If a part of
8 [this act] is invalid, all valid parts that are severable
9 from the invalid part remain in effect. If a part of [this
10 act] is invalid in one or more of its applications, the part
11 remains in effect in all valid applications that are
12 severable from the invalid applications.

13 NEW SECTION. Section 21. Effective dates. (1)
14 [Section 3 and this section] are effective on passage and
15 approval.

16 (2) [Sections 1, 2, and 4 through 20] are effective
17 January 1, 1990.

-End-