

1 HOUSE BILL NO. 33

2 INTRODUCED BY SCHWINDEN

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF BARBERS TO IMPOSE
6 ADMINISTRATIVE FINES ON AND RECOVER COSTS FROM INDIVIDUALS VIOLATING CERTAIN
7 PROVISIONS OF LAW AND ADMINISTRATIVE RULES GOVERNING THE PRACTICE OF BARBERS; AND
8 AMENDING SECTION 37-30-502, MCA."

9
10 STATEMENT OF INTENT

11 This bill requires a statement of intent because it authorizes the board of barbers to impose
12 administrative fines on and recover costs from individuals violating certain provisions of law and
13 administrative rules governing the practice of barbers. Costs may not be recovered unless the licensee
14 stipulates to a violation of a provision of law or administrative rule or the licensee, pursuant to a hearing,
15 has been found to have violated a provision of law or administrative rule.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:18
19 **Section 1.** Section 37-30-502, MCA, is amended to read:

20 "**37-30-502. Refusal, suspension, or revocation of license.** (1) The board may, after notice and
21 opportunity for a hearing, refuse to issue or renew or may suspend or revoke the license of a barber or the
22 license of any barbershop, barber school, or college for any of the following acts of a licensee:

23 ~~(1)(a)~~ the violation of any of the provisions of 37-30-308; 37-30-403, except ~~subsection~~
24 37-30-403(1)(f); 37-30-406; 37-30-407; 37-30-412; 37-30-413; or 37-30-421;

25 ~~(2) malpractice or incompetency;~~26 ~~(3)(b)~~ continued practice by a person knowingly having an infectious or contagious disease;27 ~~(4)(c)~~ advertising by means of knowingly false or deceptive statements;28 ~~(5)(d)~~ advertising, practicing, or attempting to practice under a trade name other than one's own;

29 ~~(6)(e)~~ habitual drunkenness or addiction to the use of ~~morphine, cocaine, or other habit-forming~~
30 illegal drugs; or

1 ~~(7)(f)~~ the violation of any of the rules adopted pursuant to 37-30-203, including rules defining
2 unprofessional conduct.

3 (2) The board may impose an administrative fine not to exceed \$1,000 for each violation of this
4 chapter or rule adopted pursuant to this chapter, subject to the contested case procedures of the Montana
5 Administrative Procedure Act. If a licensee does not request a hearing or pay the fine within 20 days'
6 notice of the fine, the board may suspend the licensee's license until the fine is paid.

7 (3) Upon a finding of a violation of this chapter or a rule adopted pursuant to this chapter, the
8 board may assess and recover from a licensee its reasonable costs for any proceeding initiated under this
9 section. The board may suspend the licensee's license until the costs are paid if the licensee fails to pay
10 the costs within 20 days' notice of the costs."

11 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0033, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the Board of Barbers to impose administrative fines on and recover costs from individuals violating certain provisions of law and administrative rules governing the practice of barbers.

ASSUMPTIONS:

1. It is anticipated that five formal disciplinary actions per year will result in the imposition of administrative fines at an average of \$500 per incident, and the revenue will be deposited in the Board of Barbers state special revenue account.
2. The current budget for the Board of Barbers provides for contested hearings. Therefore no additional impact on expenditures is anticipated.
3. Assume that the cost-recovery provision in this bill will provide revenues that offset costs producing no fiscal impact.

FISCAL IMPACT:

Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Administrative Fines:		
State Special Revenue (02)	2,500	2,500

David Lewis 1-2-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Dore Schwinden
DORE SCHWINDEN, PRIMARY SPONSOR DATE
Fiscal Note for HB0033, as introduced

HB 33

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

HOUSE BILL NO. 33

INTRODUCED BY SCHWINDEN

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF BARBERS TO IMPOSE ADMINISTRATIVE FINES ON AND RECOVER COSTS FROM INDIVIDUALS VIOLATING CERTAIN PROVISIONS OF LAW AND ADMINISTRATIVE RULES GOVERNING THE PRACTICE OF BARBERS; AND AMENDING SECTION 37-30-502, MCA."

STATEMENT OF INTENT

This bill requires a statement of intent because it authorizes the board of barbers to impose administrative fines on and recover costs from individuals violating certain provisions of law and administrative rules governing the practice of barbers. Costs may not be recovered unless the licensee stipulates to a violation of a provision of law or administrative rule or the licensee, pursuant to a hearing, has been found to have violated a provision of law or administrative rule.

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

Section 1. Section 37-30-502, MCA, is amended to read:

"37-30-502. Refusal, suspension, or revocation of license. (1) The board may, after notice and opportunity for a hearing, refuse to issue or renew or may suspend or revoke the license of a barber or the license of any barbershop, barber school, or college for any of the following acts of a licensee:

~~(1)(a)~~ the violation of any of the provisions of 37-30-308; 37-30-403, except ~~subsection~~ 37-30-403(1)(f); 37-30-406; 37-30-407; 37-30-412; 37-30-413; or 37-30-421;

~~(2) malpractice or incompetency;~~

~~(3)(b)~~ continued practice by a person knowingly having an infectious or contagious disease;

~~(4)(c)~~ advertising by means of knowingly false or deceptive statements;

~~(5)(d)~~ advertising, practicing, or attempting to practice under a trade name other than one's own;

~~(6)(e)~~ habitual drunkenness or addiction to the use of ~~morphine, cocaine, or other habit forming~~ illegal drugs; or

1 ~~(7)(f)~~ the violation of any of the rules adopted pursuant to 37-30-203, including rules defining
2 unprofessional conduct.

3 (2) The board may impose an administrative fine not to exceed \$1,000 for each violation of this
4 chapter or rule adopted pursuant to this chapter, subject to the contested case procedures of the Montana
5 Administrative Procedure Act. If a licensee does not request a hearing or pay the fine within 20 days'
6 notice of the fine, the board may suspend the licensee's license until the fine is paid.

7 (3) Upon a finding of a violation of this chapter or a rule adopted pursuant to this chapter, the
8 board may assess and recover from a licensee its reasonable costs for any proceeding initiated under this
9 section. The board may suspend the licensee's license until the costs are paid if the licensee fails to pay
10 the costs within 20 days' notice of the costs."

11

-END-