

1 HOUSE BILL NO. 66

2 INTRODUCED BY WISEMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE RECOMMENDATION OF THE GOVERNOR'S
5 TASK FORCE TO RENEW MONTANA GOVERNMENT BY TRANSFERRING THE LICENSING OF
6 CONSTRUCTION BLASTERS, BOILER AND STEAM ENGINE OPERATORS, AND CRANE AND HOIST
7 OPERATORS TO THE DEPARTMENT OF COMMERCE FROM THE DEPARTMENT OF LABOR AND
8 INDUSTRY; AND AMENDING SECTIONS 37-72-101, 50-74-304, 50-74-305, 50-74-307, 50-74-308,
9 50-74-312, 50-74-314, 50-74-317, 50-76-102, 50-76-103, 50-76-104, 50-76-106, AND 50-76-110,
10 MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 37-72-101, MCA, is amended to read:

15 **"37-72-101. Construction blasting restrictions -- license required -- definitions -- exemptions. (1)**

16 ~~No~~ A person may not engage in the practice of construction blasting unless licensed or under the
17 supervision of a person licensed as a construction blaster by the department.

18 (2) For the purposes of this chapter:

19 (a) "construction blaster" means a person who engages in construction blasting;

20 (b) "construction blasting" means the use of explosives to:

21 (i) reduce, destroy, or weaken any residential, commercial, or other building; or

22 (ii) excavate any ditch, trench, cut, or hole or reduce, destroy, weaken, or cause a change in grade
23 of any land formation in the construction of any building, highway, road, pipeline, sewerline, or electric or
24 other utility line;

25 (c) "department" means the department of ~~labor and industry~~ commerce;

26 (d) "explosive" has the meaning given in 61-1-506.

27 (3) Nothing in this chapter applies to the private or commercial use of explosives by persons
28 engaged in farming, ranching, logging, geophysical work, drilling or development of water, oil, or gas wells,
29 or mining of any kind or to the private use of explosives in the removal of stumps and rocks from land
30 owned by the person using the explosives, except that the persons exempted from this chapter by this

1 subsection ~~must~~ shall comply with rules adopted under 37-72-201(1)(c) and the provisions of 37-72-102
2 apply to a violation of those rules by an exempted person.

3 (4) This chapter does not apply to persons conducting blasting operations when the persons and
4 operations are subject to rules adopted under ~~and implementing~~ 82-4-231(10)(e)."

5

6 **Section 2.** Section 50-74-304, MCA, is amended to read:

7 **"50-74-304. Requirements for engineer's license.** Each applicant for an engineer's license must
8 be physically and mentally capable of performing the required duties and shall meet the following minimum
9 requirements for the class of engineer's license for which application is being made:

10 (1) An applicant for a low-pressure engineer's license must be over 18 years of age, must have
11 at least 3 months' full-time experience in the operation of a boiler in this classification, is required to
12 successfully pass a written examination prescribed by the department of commerce, have passed his 18th
13 birthday, and must be found ~~to be~~ competent to operate a boiler in this classification by the department
14 of commerce.

15 (2) An applicant for a third-class engineer's license must be over 18 years of age, must have at
16 least 6 months' full-time experience in the operation of a boiler in this classification under an engineer
17 holding a valid third-class or higher license, is required to successfully pass a written examination prescribed
18 by the department of commerce, have passed his 18th birthday, and must be found ~~to be~~ competent to
19 operate a boiler in this classification by the department of commerce.

20 (3) An applicant for a second-class engineer's license must be over 18 years of age and:

21 (a) must have at least 2 years' full-time experience in the operation of a boiler and steam-driven
22 machinery in this classification under an engineer holding a valid second-class or first-class license, is
23 required to successfully pass a written examination prescribed by the department of commerce, have
24 passed his 18th birthday, and must be found ~~to be~~ competent to operate a boiler and steam-driven
25 machinery in this classification by the department of commerce; or

26 (b) shall hold a valid third-class engineer's license, ~~and~~ must have at least 1 year's full-time
27 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
28 holding a valid second-class or first-class license, is required to successfully pass a written examination
29 prescribed by the department of commerce, have passed his 18th birthday, and must be found ~~to be~~
30 competent to operate a boiler and steam-driven machinery in this classification by the department of

1 commerce.

2 (4) An applicant for a first-class engineer's license must be over 18 years of age and:

3 (a) must have at least 3 years' full-time experience in the operation of a boiler and steam-driven
4 machinery in this classification under an engineer holding a valid first-class license, is required to
5 successfully pass a written examination prescribed by the department of commerce, ~~have passed his 18th~~
6 ~~birthday~~, and must be found ~~to be~~ competent to operate a boiler and steam-driven machinery in this
7 classification by the department of commerce;

8 (b) shall hold a valid second-class engineer's license, ~~and~~ must have at least 1 year's full-time
9 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
10 holding a valid first-class license, is required to successfully pass a written examination prescribed by the
11 department of commerce, ~~have passed his 18th birthday~~, and must be found ~~to be~~ competent to operate
12 a boiler and steam-driven machinery in this classification by the department of commerce; or

13 (c) shall hold a valid third-class engineer's license, ~~and~~ must have at least 2 year's full-time
14 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
15 holding a valid first-class license, is required to successfully ~~passed~~ pass a written examination prescribed
16 by the department of commerce, ~~have passed his 18th birthday~~, and must be found ~~to be~~ competent to
17 operate a boiler and steam-driven machinery in this classification by the department of commerce."

18

19 **Section 3.** Section 50-74-305, MCA, is amended to read:

20 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
21 to the minimum requirements set out in 50-74-304 are as follows:

22 (1) An applicant for an engineer's license in any classification holding a valid license in that
23 classification from another state having licensing requirements equal to or exceeding the minimum
24 requirements set out in 50-74-304, successfully passing a written examination prescribed by the
25 department of commerce, and found ~~to be~~ competent to operate a boiler and steam-driven machinery in
26 that classification ~~shall~~ by the department of commerce must be granted a license in that classification.

27 (2) Operating experience in a classification accumulated in the United States military services or
28 the merchant marine service satisfactory to the department of commerce may be accepted in lieu of the
29 operating experience required for licensing of engineers in each of the license classifications.

30 (3) An applicant having training in the operation of steam or water boilers and steam machinery

1 who has been certified as having satisfactorily completed a prescribed training course from a recognized
 2 vocational-technical training school or center or other department-approved institution or training program
 3 in the classification for which ~~he~~ the applicant is applying may, at the discretion of the department of
 4 commerce, be credited with a maximum of 6 months' experience toward a first-, second-, or third-class
 5 engineer's license."

6
 7 **Section 4.** Section 50-74-307, MCA, is amended to read:

8 **"50-74-307. Requirements for traction licenses.** An applicant for a traction engineer's license must
 9 be over 18 years of age, must have at least 6 months' full-time experience in the operation of steam
 10 traction engines, is required to successfully pass a written examination prescribed by the department of
 11 commerce, have passed his 18th birthday, and must be found to be competent to operate a traction engine
 12 by the department of commerce."

13
 14 **Section 5.** Section 50-74-308, MCA, is amended to read:

15 **"50-74-308. Waiver of experience requirement for traction licenses.** The department of commerce,
 16 ~~at its discretion,~~ may waive the experience requirement for operators of traction engines ~~which~~ that are
 17 maintained and operated as a hobby for the restoration and show purposes of antique equipment."

18
 19 **Section 6.** Section 50-74-312, MCA, is amended to read:

20 **"50-74-312. Review of license rejection.** (1) ~~If any person who has applied~~ An applicant for a
 21 license under the provisions of this chapter ~~and whose application has been rejected feels aggrieved, he~~
 22 may, ~~at any time after the lapse of 10 days and~~ within 45 days after the date of ~~his~~ the rejection, ~~in writing~~
 23 set forth ~~the causes of his grievance~~ in writing any arguments opposing the rejection and request a
 24 ~~department~~ review by the department of commerce. ~~Such~~ The request must be addressed to the
 25 department of commerce and ~~shall~~ must be signed by the ~~rejected~~ applicant.

26 (2) Within 2 days after receiving ~~such~~ the request, the department of commerce shall notify the
 27 applicant in writing that on a certain day, ~~which shall not be less than 5 days~~ or more than 30 days after
 28 ~~the date the department receives~~ receipt of the written request, the department of commerce shall review
 29 and evaluate the application and any arguments opposing the rejection of the license application.

30 (3) The applicant may appear in person at the review ~~if he so desires.~~ At least 2 days before the

1 day set for the review, the applicant may designate in writing to the department of commerce the name
 2 of an engineer holding a valid license of equal or higher grade ~~with than~~ the one applied for, and ~~each the~~
 3 engineer may ~~present himself in~~ testify on behalf of the applicant ~~upon the day and at the hour fixed for~~
 4 at the review.

5 (4) After the review is ~~completed~~, if the department of commerce ~~decides~~ determines that the
 6 applicant is entitled to the license ~~he has applied for~~ license, the department of commerce shall ~~without~~
 7 ~~delay~~ issue a the license, accordingly but, if If the department ~~rejects the applicant~~ affirms the decision to
 8 not issue the license, ~~it is a final rejection and he must not be granted another examination for the space~~
 9 ~~of 45 days after such last rejection, when he may again apply~~ the applicant is required to reapply to take
 10 the license examination, as provided ~~by~~ in 50-74-309 through 50-74-311, and may not take the
 11 examination within 45 days of the final decision to not issue the license."

12

13 **Section 7.** Section 50-74-314, MCA, is amended to read:

14 "**50-74-314. Complaints and revocation of license.** Whenever a complaint is ~~made~~ against an
 15 engineer ~~holding~~ who holds a license is made alleging that ~~he~~, through negligence, want of skill, or
 16 inattention to duty, the engineer permitted ~~his~~ a boiler to burn or otherwise become in bad condition or
 17 alleging that ~~he~~ the engineer has been found intoxicated or under the influence of drugs while on duty, it
 18 is the duty of the department of commerce to make a thorough investigation of the charge and upon
 19 satisfactory proof of ~~such~~ the charge to revoke the license of the engineer pursuant to the contested case
 20 provisions of the Montana Administrative Procedure Act."

21

22 **Section 8.** Section 50-74-317, MCA, is amended to read:

23 "**50-74-317. When unlicensed person may operate.** (1) In case of accident, sickness, or any
 24 unforeseen ~~prevention of the~~ event that prevents a licensed engineer, employed by ~~any~~ an owner, renter,
 25 or user of an engine or boiler, from performing required duties, the owner, renter, or user may for 15 days
 26 employ any person ~~of the age of~~ over 18 years ~~or over whom he may consider~~ of age whom the owner,
 27 renter, or user considers competent to run the engine or boiler.

28 (2) Although ~~such~~ the person ~~is~~ employed may not be the holder of an engineer's license, ~~he~~ the
 29 person shall must have reasonable qualifications acceptable to the department of commerce.

30 (3) ~~The~~ A person ~~is~~ employing ~~the~~ an unlicensed engineer shall immediately notify the department

1 of commerce.

2 (4) ~~No~~ An owner, renter, or user of boilers or steam machinery ~~shall be allowed to so~~ may not
3 employ unlicensed engineers for more than 15 days in any ~~one~~ 1 calendar year."

4
5 **Section 9.** Section 50-76-102, MCA, is amended to read:

6 **"50-76-102. Hoisting engine license required.** (1) (a) It is unlawful for ~~any~~ a person to operate any
7 hoisting engine driven by any power when used in lowering or hoisting personnel or material in industrial
8 operations or on construction projects without first obtaining a license ~~therefor~~ from the department of
9 commerce.

10 (b) In emergencies under 50-74-317 relating to the employment of unlicensed engineers, the
11 provisions of that section ~~shall~~ apply to the operation of the engines and machinery named ~~herein~~ in this
12 section.

13 (2) First-class hoisting engineers ~~shall~~ must be licensed to operate hoisting engines driven by any
14 power and unlimited horsepower used in the lowering or hoisting of personnel or material in industrial
15 operations or on construction projects.

16 (3) Second-class hoisting engineers ~~shall~~ must be licensed to operate hoisting engines driven by
17 any power and not in excess of 100 brake horsepower used in the lowering or hoisting of personnel or
18 material in industrial operations or on construction projects.

19 (4) The provisions of this section ~~shall~~ do not apply to hoists and cranes defined in 50-76-103."
20

21 **Section 10.** Section 50-76-103, MCA, is amended to read:

22 **"50-76-103. Crane and hoist license required.** (1) (a) It is unlawful for a person to operate any
23 hoisting equipment, when used in hoisting or lowering personnel or material, that has a manufacturer's
24 rating of above 6 tons and a boom length of more than 25 feet without first obtaining a license from the
25 department of commerce. This equipment includes overhead trolley cranes used in construction only and
26 excludes equipment with excavation attachments or log loading equipment when in use.

27 (b) In emergencies, 50-74-317 ~~shall apply~~ applies to the operation of the equipment named in this
28 section.

29 (2) Licensing is as follows:

30 (a) First-class hoisting engineers are licensed to operate any hoisting equipment in industrial or

1 construction operations.

2 (b)(i) An applicant for a first-class hoisting engineer's license must be over 18 years of age and shall
3 ~~have:~~

4 (A) must have no less than 3 years' experience operating equipment requiring a second-class
5 hoisting engineer's license or shall ~~otherwise be shown to be equivalently competent~~ demonstrate
6 equivalent competency by examination; and

7 ~~(B) passed his 18th birthday; and~~

8 ~~(C)(B)~~ is required to passed pass a written test prescribed by the department of commerce.

9 (ii) An annual physical exam is required of all licensees.

10 (c) Second-class hoisting engineers are licensed to operate hoisting equipment with a
11 manufacturer's rating of 6 tons and a boom length of 25 feet up to equipment with a rating of 15 tons and
12 a boom length of 60 feet.

13 (d)(i) ~~Applicants~~ An applicant for a second-class hoisting engineer's license must be over 18 years
14 of age and shall:

15 (A) must have no less than 2 years' experience in actual operation of hoisting equipment covered
16 by this section or shall ~~otherwise be shown to be equivalently competent~~ demonstrate equivalent
17 competency by examination; and

18 (B) is required to successfully pass a written examination prescribed by the department of
19 commerce; and

20 ~~(C) have passed their 18th birthday.~~

21 (ii) An annual physical exam is required of all licensees.

22 (e) Third-class hoisting engineers are licensed to move all truck cranes driven by any power and
23 of any capacity. This license requirement applies to truck crane oilers who move truck cranes.

24 (f) ~~Applicants~~ An applicant for a third-class hoisting engineer's license ~~shall~~ is required to
25 successfully pass a written test prescribed by the department of commerce and ~~shall~~ must be over at least
26 18 years old years of age before receiving ~~this a~~ a license.

27 (3) The department of commerce shall reexamine each licensed engineer or operator every 5 years
28 during the anniversary month of ~~his~~ the issuance of the license if the licensee has not worked at the trade
29 for 5 years."

30

1 **Section 11.** Section 50-76-104, MCA, is amended to read:

2 "50-76-104. **Application and fee for license.** Application for licenses ~~shall~~ must be made to the
3 department of commerce in the same manner and the same fee ~~shall~~ must be charged as required by law
4 for obtaining a license to operate steam engines, boilers, and steam-driven machinery under chapter 74 of
5 this title."

6

7 **Section 12.** Section 50-76-106, MCA, is amended to read:

8 "50-76-106. **Revocation of license.** The department of commerce may revoke any license issued
9 under this chapter for any of the reasons for which the department of commerce may revoke a license to
10 operate steam engines, boilers, or steam-driven machinery under chapter 74 of this title."

11

12 **Section 13.** Section 50-76-110, MCA, is amended to read:

13 "50-76-110. **Crane inspector.** The department of commerce shall employ at least one crane
14 inspector. ~~He~~ The crane inspector shall hold a first-class hoisting engineer's license under this chapter for
15 a minimum of 1 year and must have a minimum of 3 years' experience operating cranes."

16

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0066, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

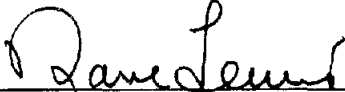
An act implementing the recommendation of the Governor's Task Force to Renew Montana Government to transfer the licensing of construction blasters, boiler and steam engine operators, and crane and hoist operators to the Department of Commerce from the Department of Labor and Industry (DLI).

ASSUMPTIONS:

1. The licensing functions for construction blasters, boiler and steam engine operators, and crane and hoist operators and operations will be transferred from DLI to the Department of Commerce, Professional & Occupational Licensing Bureau (POL) effective July 1, 1995.
The regulation and inspection of boiler equipment remains with DLI.
2. The Executive Budget for the above functions has been developed and identified in the DLI, and is adequate to fund the functions in the POL. This includes transfer of 1.50 FTE each year of the biennium, and transfer of state special revenue fund authority of \$72,064 in FY96 and \$72,095 in FY97.
3. Current office equipment in DLI will be moved with the employees, and moving costs will be absorbed in the transferred budget.
4. POL will require additional transfer authority in its proprietary "pool" fund of \$16,000 each year of the biennium. At the end of the session, proprietary authority in POL will be adjusted for all bills passed.
5. Currently, license fees for the above functions provide for only 50% of the cost of the functions. Revenue shortfalls have been funded by Workers' Compensation Assessments against insurers. This practice will cease with the transfer. Instead, HB68 provides DLI with rule making authority to establish license fees. The following assumptions are made: 1) HB68 will pass, 2) the rule making authority will transfer to POL, and 3) POL will increase license fees on July 1, 1995, to fully fund the above functions.

FISCAL IMPACT:

Passage of HB66 will have no fiscal impact to state government.

 1-7-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/9/95
WILLIAM WISEMAN, PRIMARY SPONSOR / DATE

Fiscal Note for HB0066, as introduced

HB66

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

HOUSE BILL NO. 66

INTRODUCED BY WISEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE RECOMMENDATION OF THE GOVERNOR'S TASK FORCE TO RENEW MONTANA GOVERNMENT BY TRANSFERRING THE LICENSING OF CONSTRUCTION BLASTERS, BOILER AND STEAM ENGINE OPERATORS, AND CRANE AND HOIST OPERATORS TO THE DEPARTMENT OF COMMERCE FROM THE DEPARTMENT OF LABOR AND INDUSTRY; AUTHORIZING THE DEPARTMENT TO ESTABLISH BY ADMINISTRATIVE RULE BOILER ENGINEER LICENSE FEE SCHEDULES AND APPROPRIATE TRAINING COURSES; CLARIFYING BOILER ENGINEER EXPERIENCE REQUIREMENTS; ESTABLISHING A NEW CLASS OF LICENSE FOR SEASONAL AGRICULTURAL PURPOSES; MODIFYING HOISTING ENGINEER LICENSE STANDARDS TO INCLUDE EITHER CRANE BOOM LENGTH OR TONNAGE RATING; AND AMENDING SECTIONS 37-72-101, 39-71-201, 50-74-303, 50-74-304, 50-74-305, 50-74-307, 50-74-308, 50-74-309, 50-74-312, 50-74-314, 50-74-317, 50-76-102, 50-76-103, 50-76-104, 50-76-106, AND 50-76-110, MCA."

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

Section 1. Section 37-72-101, MCA, is amended to read:

"37-72-101. Construction blasting restrictions -- license required -- definitions -- exemptions. (1)
~~No~~ **A** person may not engage in the practice of construction blasting unless licensed or under the supervision of a person licensed as a construction blaster by the department.

(2) For the purposes of this chapter:

(a) "construction blaster" means a person who engages in construction blasting;

(b) "construction blasting" means the use of explosives to:

(i) reduce, destroy, or weaken any residential, commercial, or other building; or

(ii) excavate any ditch, trench, cut, or hole or reduce, destroy, weaken, or cause a change in grade of any land formation in the construction of any building, highway, road, pipeline, sewerline, or electric or other utility line;

(c) "department" means the department of ~~labor and industry~~ commerce;

(d) "explosive" has the meaning given in 61-1-506.

1 (3) Nothing in this chapter applies to the private or commercial use of explosives by persons
2 engaged in farming, ranching, logging, geophysical work, drilling or development of water, oil, or gas wells,
3 or mining of any kind or to the private use of explosives in the removal of stumps and rocks from land
4 owned by the person using the explosives, except that the persons exempted from this chapter by this
5 subsection ~~must~~ shall comply with rules adopted under 37-72-201(1)(c) and the provisions of 37-72-102
6 apply to a violation of those rules by an exempted person.

7 (4) This chapter does not apply to persons conducting blasting operations when the persons and
8 operations are subject to rules adopted under ~~and implementing~~ 82-4-231(10)(e)."

9

10 **SECTION 2. SECTION 39-71-201, MCA, IS AMENDED TO READ:**

11 "**39-71-201. Administration fund.** (1) A workers' compensation administration fund is established
12 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
13 various occupational safety acts the department must administer, with the exception of the subsequent
14 injury fund, as provided for in 39-71-907, and the uninsured employers' fund, are to be paid upon lawful
15 appropriation. The following money collected by the department must be deposited in the state treasury
16 to the credit of the workers' compensation administrative fund and must be used for the administrative
17 expenses of the department:

18 (a) all fees and penalties provided in 39-71-205 and 39-71-304;

19 (b) all fees paid for inspection of boilers ~~and issuance of licenses to operating engineers~~ as required
20 by law;

21 (c) all fees paid from an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No.
22 3, the state fund. The assessments must be levied against the preceding calendar year's gross annual
23 payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on the
24 policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding
25 calendar year. However, an assessment of the plan No. 1 employer or plan No. 2 insurer may not be less
26 than \$200. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure
27 or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or
28 plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the direct costs
29 identified to the three plans and an equitable portion of the indirect costs based on the ratio of the
30 preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost allocation

1 procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an equitable
2 portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including unexpended funds
3 from the preceding fiscal year, must be used to reduce the costs before levying the assessments.

4 (2) The administration fund must be debited with expenses incurred by the department in the
5 general administration of the provisions of this chapter, including the salaries of its members, officers, and
6 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
7 through 2-18-503, as amended, incurred while on the business of the department either within or without
8 the state.

9 (3) Disbursements from the administration money must be made after being approved by the
10 department upon claim therefor."

11
12 **SECTION 3. SECTION 50-74-303, MCA, IS AMENDED TO READ:**

13 "50-74-303. **Engineer's license classifications.** (1) Engineers entrusted with the operation, care,
14 and management of steam or water boilers and steam machinery, as specified in 50-74-302, are divided
15 into ~~four~~ five classes, namely: first-class engineers, second-class engineers, third-class engineers,
16 agricultural-class engineers and low-pressure engineers.

17 (2) Licenses for the operation of steam or water boilers and steam machinery are divided into ~~four~~
18 five classifications in accordance with the following schedule:

19 (a) First-class engineers are licensed to operate all classes, pressures, and temperatures of steam
20 and water boilers and steam-driven machinery with the exception of traction and hoisting engines.

21 (b) Second-class engineers are licensed to operate steam boilers operating not in excess of 250
22 pounds per square inch gauge saturated steam pressure, water boilers operating not in excess of 375
23 pounds per square inch gauge pressure and 450 degrees F temperature, and steam-driven machinery not
24 to exceed 100 horsepower per unit, with the exception of traction and hoisting engines.

25 (c) Third-class engineers are licensed to operate steam boilers operating not in excess of 100
26 pounds per square inch gauge saturated steam pressure and water boilers operating not in excess of 160
27 pounds per square inch gauge pressure and 350 degrees F temperature.

28 (d) Agricultural-class engineers are licensed to operate steam boilers that operate not in excess of
29 150 pounds per square inch saturated steam pressure and that:

30 (i) are not operated for more than 6 months of the year; and

1 (ii) are not operated for purposes other than the harvesting or processing of agricultural products.

2 (e) Low-pressure engineers are licensed to operate steam boilers operating not in excess of 15
3 pounds per square inch gauge pressure and water boilers operating not in excess of 50 pounds per square
4 inch gauge pressure and 250 degrees F temperature.

5

6 **Section 4.** Section 50-74-304, MCA, is amended to read:

7 **"50-74-304. Requirements for engineer's license.** Each applicant for an engineer's license must
8 be physically and mentally capable of performing the required duties and shall meet the following minimum
9 requirements for the class of engineer's license for which application is being made:

10 (1) An applicant for a AN AGRICULTURAL-CLASS ENGINEER'S LICENSE OR A low-pressure
11 engineer's license must be over 18 years of age 18 YEARS OF AGE OR OLDER, must have at least 3
12 months' full-time experience in the operation of a boiler in ~~this~~ THE APPROPRIATE classification, is required
13 to successfully pass a written examination prescribed by the department of commerce, have passed his
14 18th birthday, and must be found ~~to be~~ competent to operate a boiler in this classification by the
15 department of commerce.

16 (2) An applicant for a third-class engineer's license must be over 18 years of age 18 YEARS OF
17 AGE OR OLDER, must have at least 6 months' full-time experience in the operation of a boiler in this
18 classification under an engineer holding a valid third-class or higher license, is required to successfully pass
19 a written examination prescribed by the department of commerce, have passed his 18th birthday, and must
20 be found ~~to be~~ competent to operate a boiler in this classification by the department of commerce.

21 (3) An applicant for a second-class engineer's license must be over 18 years of age 18 YEARS OF
22 AGE OR OLDER and:

23 (a) must have at least 2 years' full-time experience in the operation of a boiler and steam-driven
24 machinery in this classification under an engineer holding a valid second-class or first-class license, is
25 required to successfully pass a written examination prescribed by the department of commerce, have
26 passed his 18th birthday, and must be found ~~to be~~ competent to operate a boiler and steam-driven
27 machinery in this classification by the department of commerce; or

28 (b) shall hold a valid third-class engineer's license, ~~and~~ must have at least 1 year's full-time
29 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
30 holding a valid second-class or first-class license, is required to successfully pass a written examination

1 prescribed by the department of commerce, ~~have passed his 18th birthday~~, and must be found ~~to be~~
 2 competent to operate a boiler and steam-driven machinery in this classification by the department of
 3 commerce.

4 (4) An applicant for a first-class engineer's license must ~~be over 18 years of age~~ 18 YEARS OF
 5 AGE OR OLDER and:

6 (a) must have at least 3 years' full-time experience in the operation of a boiler and steam-driven
 7 machinery in this classification under an engineer holding a valid first-class license, is required to
 8 successfully pass a written examination prescribed by the department of commerce, ~~have passed his 18th~~
 9 ~~birthday~~, and must be found ~~to be~~ competent to operate a boiler and steam-driven machinery in this
 10 classification by the department of commerce;

11 (b) shall hold a valid second-class engineer's license, ~~and~~ must have at least 1 year's full-time
 12 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
 13 holding a valid first-class license, is required to successfully pass a written examination prescribed by the
 14 department of commerce, ~~have passed his 18th birthday~~, and must be found ~~to be~~ competent to operate
 15 a boiler and steam-driven machinery in this classification by the department of commerce; or

16 (c) shall hold a valid third-class engineer's license, ~~and~~ must have at least 2 year's full-time
 17 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
 18 holding a valid first-class license, is required to successfully ~~passed~~ pass a written examination prescribed
 19 by the department of commerce, ~~have passed his 18th birthday~~, and must be found ~~to be~~ competent to
 20 operate a boiler and steam-driven machinery in this classification by the department of commerce."

21

22 **Section 5.** Section 50-74-305, MCA, is amended to read:

23 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
 24 to the minimum requirements set out in 50-74-304 are as follows:

25 (1) An applicant for an engineer's license in any classification holding a valid license in that
 26 classification from another state having licensing requirements equal to or exceeding the minimum
 27 requirements set out in 50-74-304, successfully passing a written examination prescribed by the
 28 department of commerce, and found ~~to be~~ competent to operate a boiler and steam-driven machinery in
 29 that classification ~~shall~~ by the department of commerce must be granted a license in that classification.

30 (2) Operating experience in a classification accumulated in the United States military services or

1 the merchant marine service satisfactory to the department of commerce may be accepted in lieu of the
2 operating experience required for licensing of engineers in each of the license classifications.

3 (3) An applicant having training in the operation of steam or water boilers and steam machinery
4 who has been certified as having satisfactorily completed a prescribed training course from a recognized
5 vocational-technical training school or center or other department-approved institution or training program
6 in the classification for which ~~he~~ the applicant is applying may, at the discretion of the department of
7 commerce, be credited with a maximum of 6 months' experience toward a first-, second-, or third-class
8 engineer's license."

9
10 **Section 6.** Section 50-74-307, MCA, is amended to read:

11 "**50-74-307. Requirements for traction licenses.** An applicant for a traction engineer's license must
12 be over 18 years of age, must have at least 6 months' full-time experience in the operation of steam
13 traction engines, is required to successfully pass a written examination prescribed by the department of
14 commerce, ~~have passed his 18th birthday,~~ and must be found ~~to be~~ competent to operate a traction engine
15 by the department of commerce."

16
17 **Section 7.** Section 50-74-308, MCA, is amended to read:

18 "**50-74-308. Waiver of experience requirement for traction licenses.** The department of commerce,
19 ~~at its discretion,~~ may waive the experience requirement for operators of traction engines ~~which that~~ are
20 maintained and operated as a hobby for the restoration and show purposes of antique equipment."

21
22 **SECTION 8. SECTION 50-74-309, MCA, IS AMENDED TO READ:**

23 "**50-74-309. License fees.** ~~Applicants~~ (1) An applicant for an engineer's license shall pay fees a
24 fee according to the class of license for which application is made, as specified ~~in the following schedule:~~

- 25 (1) ~~first class~~ — ~~\$30~~
26 (2) ~~second class~~ — ~~\$20~~
27 (3) ~~third class~~ — ~~\$12~~
28 (4) ~~low pressure~~ — ~~\$ 8~~
29 (5) ~~traction~~ — ~~\$12~~
30 (6) ~~renewal of license~~ — ~~\$ 4~~

1 ~~(7) replacement of lost certificate — \$ 2 by department rule.~~

2 (2) The fee is subject to the provisions of 37-1-134 and must be deposited in the state special
3 revenue fund for the use of the department of commerce."

4
5 **Section 9.** Section 50-74-312, MCA, is amended to read:

6 "**50-74-312. Review of license rejection.** (1) ~~If any person who has applied~~ An applicant for a
7 license under the provisions of this chapter ~~and whose application~~ has been rejected feels aggrieved, he
8 may, ~~at any time after the lapse of 10 days and~~ within 45 days after the date of his the rejection, in writing
9 ~~set forth the causes of his grievance~~ in writing any arguments opposing the rejection and request a
10 ~~department~~ review by the department of commerce. ~~Such~~ The request must be addressed to the
11 department of commerce and ~~shall~~ must be signed by the ~~rejected~~ applicant.

12 (2) Within 2 days after receiving ~~such the~~ the request, the department of commerce shall notify the
13 applicant in writing that on a certain day, ~~which shall~~ not be less than 5 days or more than 30 days after
14 ~~the date the department receives receipt of~~ the written request, the department of commerce shall review
15 and evaluate the application and any arguments opposing the rejection of the license application.

16 (3) The applicant may appear in person at the review ~~if he so desires.~~ At least 2 days before the
17 day set for the review, the applicant may designate in writing to the department of commerce the name
18 of an engineer holding a valid license of equal or higher grade ~~with than~~ the one applied for, and such the
19 engineer may ~~present himself in~~ testify on behalf of the applicant ~~upon the day and at the hour fixed for~~
20 at the review.

21 (4) After the review ~~is completed,~~ if the department of commerce ~~decides~~ determines that the
22 applicant is entitled to the ~~license he has applied for~~ license, the department of commerce shall ~~without~~
23 ~~delay~~ issue a the license, accordingly but, if If the department ~~rejects the applicant~~ affirms the decision to
24 not issue the license, ~~it is a final rejection and he must not be granted another examination for the space~~
25 ~~of 45 days after such last rejection, when he may again apply~~ the applicant is required to reapply to take
26 the license examination, as provided by in 50-74-309 through 50-74-311, and may not take the
27 examination within 45 days of the final decision to not issue the license."

28
29 **Section 10.** Section 50-74-314, MCA, is amended to read:

30 "**50-74-314. Complaints and revocation of license.** Whenever a complaint ~~is made~~ against an

1 engineer ~~holding~~ who holds a license is made alleging that ~~he,~~ through negligence, want of skill, or
 2 inattention to duty, the engineer permitted ~~his~~ a boiler to burn or otherwise become in bad condition or
 3 alleging that ~~he~~ the engineer has been found intoxicated or under the influence of drugs while on duty, it
 4 is the duty of the department of commerce to make a thorough investigation of the charge and upon
 5 satisfactory proof of ~~such~~ the charge to revoke the license of the engineer pursuant to the contested case
 6 provisions of the Montana Administrative Procedure Act."

7

8 **Section 11.** Section 50-74-317, MCA, is amended to read:

9 **"50-74-317. When unlicensed person may operate.** (1) In case of accident, sickness, or any
 10 unforeseen ~~prevention of the~~ event that prevents a licensed engineer, employed by ~~any~~ an owner, renter,
 11 or user of an engine or boiler, from performing required duties, the owner, renter, or user may for 15 days
 12 employ any person ~~of the age of over~~ 18 years or over whom he may consider of age OR OLDER whom
 13 the owner, renter, or user considers competent to run the engine or boiler.

14 (2) Although ~~such~~ the person ~~so~~ employed may not be the holder of an engineer's license, ~~he~~ the
 15 person shall must have reasonable qualifications acceptable to the department of commerce.

16 (3) ~~The~~ A person ~~so~~ employing ~~the~~ an unlicensed engineer shall immediately notify the department
 17 of commerce.

18 (4) ~~No~~ An owner, renter, or user of boilers or steam machinery ~~shall be allowed to so~~ may not
 19 employ unlicensed engineers for more than 15 days in any ~~one~~ 1 calendar year."

20

21 **Section 12.** Section 50-76-102, MCA, is amended to read:

22 **"50-76-102. Hoisting engine license required.** (1) (a) It is unlawful for ~~any~~ a person to operate any
 23 hoisting engine driven by any power when used in lowering or hoisting personnel or material in industrial
 24 operations or on construction projects without first obtaining a license ~~therefor~~ from the department of
 25 commerce.

26 (b) In emergencies under 50-74-317 relating to the employment of unlicensed engineers, the
 27 provisions of that section ~~shall~~ apply to the operation of the engines and machinery named ~~herein~~ in this
 28 section.

29 (2) First-class hoisting engineers ~~shall~~ must be licensed to operate hoisting engines driven by any
 30 power and unlimited horsepower used in the lowering or hoisting of personnel or material in industrial

1 operations or on construction projects.

2 (3) Second-class hoisting engineers ~~shall~~ must be licensed to operate hoisting engines driven by
3 any power and not in excess of 100 brake horsepower used in the lowering or hoisting of personnel or
4 material in industrial operations or on construction projects.

5 (4) The provisions of this section ~~shall~~ do not apply to hoists and cranes defined in 50-76-103."
6

7 **Section 13.** Section 50-76-103, MCA, is amended to read:

8 **"50-76-103. Crane and hoist license required.** (1) (a) It is unlawful for a person to operate any
9 hoisting equipment, when used in hoisting or lowering personnel or material, that has a manufacturer's
10 rating of ~~above~~ MORE THAN 6 tons ~~and~~ OR a boom length of more than 25 feet without first obtaining a
11 license from the department of commerce. This equipment includes overhead trolley cranes used in
12 construction only and excludes equipment with excavation attachments or log loading equipment when in
13 use.

14 (b) In emergencies, 50-74-317 ~~shall apply~~ applies to the operation of the equipment named in this
15 section.

16 (2) Licensing is as follows:

17 (a) First-class hoisting engineers are licensed to operate any hoisting equipment in industrial or
18 construction operations.

19 (b)(i) An applicant for a first-class hoisting engineer's license must be over 18 years of age 18
20 YEARS OF AGE OR OLDER and shall have:

21 (A) must have no less than 3 years' experience operating equipment requiring a second-class
22 hoisting engineer's license or shall ~~otherwise be shown to be equivalently competent~~ demonstrate
23 equivalent competency by examination; and

24 ~~(B) passed his 18th birthday; and~~

25 ~~(C)(B)~~ is required to pass a written test prescribed by the department of commerce.

26 (ii) An annual physical exam is required of all licensees.

27 (c) Second-class hoisting engineers are licensed to operate hoisting equipment with a
28 manufacturer's rating of 6 tons ~~and~~ OR a boom length of 25 feet up to equipment with a rating of 15 tons
29 and a boom length of 60 feet.

30 (d)(i) ~~Applicants~~ An applicant for a second-class hoisting engineer's license must be over 18 years

1 ~~of age 18 YEARS OF AGE OR OLDER and shall:~~

2 (A) must have no less than 2 years' experience in actual operation of hoisting equipment covered
3 by this section or shall ~~otherwise be shown to be equivalently competent~~ demonstrate equivalent
4 competency by examination; and

5 (B) is required to successfully pass a written examination prescribed by the department of of
6 commerce; and

7 ~~(C) have passed their 18th birthday.~~

8 (ii) An annual physical exam is required of all licensees.

9 (e) Third-class hoisting engineers are licensed to move all truck cranes driven by any power and
10 of any capacity. This license requirement applies to truck crane oilers who move truck cranes.

11 (f) ~~Applicants~~ An applicant for a third-class hoisting engineer's license ~~shall~~ is required to
12 successfully pass a written test prescribed by the department of commerce and ~~shall~~ must be ~~over at least~~
13 ~~18 years old~~ years of age OR OLDER before receiving ~~this a~~ a license.

14 (3) The department of commerce shall reexamine each licensed engineer or operator every 5 years
15 during the anniversary month of ~~his~~ the issuance of the license if the licensee has not worked at the trade
16 for 5 years."

17

18 **Section 14.** Section 50-76-104, MCA, is amended to read:

19 "**50-76-104. Application and fee for license.** Application for licenses ~~shall~~ must be made to the
20 department of commerce ~~in the same manner and the~~ AND SUBMITTED WITH THE APPROPRIATE FEE
21 THAT IS SET COMMENSURATE WITH THE COST OF ADMINISTERING THIS PROGRAM, TO BE DEPOSITED
22 IN THE STATE SPECIAL REVENUE FUND FOR USE BY THE DEPARTMENT. THE same fee ~~shall~~ must be
23 charged as required by law for obtaining a license to operate steam engines, boilers, and steam-driven
24 machinery under chapter 74 of this title."

25

26 **Section 15.** Section 50-76-106, MCA, is amended to read:

27 "**50-76-106. Revocation of license.** The department of commerce may revoke any license issued
28 under this chapter for any of the reasons for which the department of commerce may revoke a license to
29 operate steam engines, boilers, or steam-driven machinery under chapter 74 of this title."

30

1 HOUSE BILL NO. 66

2 INTRODUCED BY WISEMAN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE RECOMMENDATION OF THE GOVERNOR'S
 5 TASK FORCE TO RENEW MONTANA GOVERNMENT BY TRANSFERRING THE LICENSING OF
 6 CONSTRUCTION BLASTERS, BOILER AND STEAM ENGINE OPERATORS, AND CRANE AND HOIST
 7 OPERATORS TO THE DEPARTMENT OF COMMERCE FROM THE DEPARTMENT OF LABOR AND
 8 INDUSTRY; AUTHORIZING THE DEPARTMENT TO ESTABLISH BY ADMINISTRATIVE RULE BOILER
 9 ENGINEER LICENSE FEE SCHEDULES AND APPROPRIATE TRAINING COURSES; CLARIFYING BOILER
 10 ENGINEER EXPERIENCE REQUIREMENTS; ESTABLISHING A NEW CLASS OF LICENSE FOR SEASONAL
 11 AGRICULTURAL PURPOSES; MODIFYING HOISTING ENGINEER LICENSE STANDARDS TO INCLUDE
 12 EITHER CRANE BOOM LENGTH OR TONNAGE RATING; AND AMENDING SECTIONS 37-72-101,
 13 39-71-201, 50-74-303, 50-74-304, 50-74-305, 50-74-307, 50-74-308, 50-74-309, 50-74-312,
 14 50-74-314, 50-74-317, 50-76-102, 50-76-103, 50-76-104, 50-76-106, AND 50-76-110, MCA."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
 18 **Section 1.** Section 37-72-101, MCA, is amended to read:

19 **"37-72-101. Construction blasting restrictions -- license required -- definitions -- exemptions. (1)**

20 ~~No~~ A person may not engage in the practice of construction blasting unless licensed or under the
 21 supervision of a person licensed as a construction blaster by the department.

22 (2) For the purposes of this chapter:

23 (a) "construction blaster" means a person who engages in construction blasting;

24 (b) "construction blasting" means the use of explosives to:

25 (i) reduce, destroy, or weaken any residential, commercial, or other building; or

26 (ii) excavate any ditch, trench, cut, or hole or reduce, destroy, weaken, or cause a change in grade
 27 of any land formation in the construction of any building, highway, road, pipeline, sewerline, or electric or
 28 other utility line;

29 (c) "department" means the department of ~~labor and industry~~ commerce;

30 (d) "explosive" has the meaning given in 61-1-506.

1 (3) Nothing in this chapter applies to the private or commercial use of explosives by persons
 2 engaged in farming, ranching, logging, geophysical work, drilling or development of water, oil, or gas wells,
 3 or mining of any kind or to the private use of explosives in the removal of stumps and rocks from land
 4 owned by the person using the explosives, except that the persons exempted from this chapter by this
 5 subsection ~~must~~ shall comply with rules adopted under 37-72-201(1)(c) and the provisions of 37-72-102
 6 apply to a violation of those rules by an exempted person.

7 (4) This chapter does not apply to persons conducting blasting operations when the persons and
 8 operations are subject to rules adopted under ~~and implementing~~ 82-4-231(10)(e)."
 9

10 **SECTION 2. SECTION 39-71-201, MCA, IS AMENDED TO READ:**

11 **"39-71-201. Administration fund.** (1) A workers' compensation administration fund is established
 12 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
 13 various occupational safety acts the department must administer, with the exception of the subsequent
 14 injury fund, as provided for in 39-71-907, and the uninsured employers' fund, are to be paid upon lawful
 15 appropriation. The following money collected by the department must be deposited in the state treasury
 16 to the credit of the workers' compensation administrative fund and must be used for the administrative
 17 expenses of the department:

18 (a) all fees and penalties provided in 39-71-205 and 39-71-304;

19 (b) all fees paid for inspection of boilers ~~and issuance of licenses to operating engineers~~ as required
 20 by law;

21 (c) all fees paid from an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No.
 22 3, the state fund. The assessments must be levied against the preceding calendar year's gross annual
 23 payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on the
 24 policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding
 25 calendar year. However, an assessment of the plan No. 1 employer or plan No. 2 insurer may not be less
 26 than \$200. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure
 27 or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or
 28 plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the direct costs
 29 identified to the three plans and an equitable portion of the indirect costs based on the ratio of the
 30 preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost allocation

1 procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an equitable
2 portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including unexpended funds
3 from the preceding fiscal year, must be used to reduce the costs before levying the assessments.

4 (2) The administration fund must be debited with expenses incurred by the department in the
5 general administration of the provisions of this chapter, including the salaries of its members, officers, and
6 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
7 through 2-18-503, as amended, incurred while on the business of the department either within or without
8 the state.

9 (3) Disbursements from the administration money must be made after being approved by the
10 department upon claim therefor."
11

12 **SECTION 3. SECTION 50-74-303, MCA, IS AMENDED TO READ:**

13 **"50-74-303. Engineer's license classifications.** (1) Engineers entrusted with the operation, care,
14 and management of steam or water boilers and steam machinery, as specified in 50-74-302, are divided
15 into ~~four~~ five classes, namely: first-class engineers, second-class engineers, third-class engineers,
16 agricultural-class engineers and low-pressure engineers.

17 (2) Licenses for the operation of steam or water boilers and steam machinery are divided into ~~four~~
18 five classifications in accordance with the following schedule:

19 (a) First-class engineers are licensed to operate all classes, pressures, and temperatures of steam
20 and water boilers and steam-driven machinery with the exception of traction and hoisting engines.

21 (b) Second-class engineers are licensed to operate steam boilers operating not in excess of 250
22 pounds per square inch gauge saturated steam pressure, water boilers operating not in excess of 375
23 pounds per square inch gauge pressure and 450 degrees F temperature, and steam-driven machinery not
24 to exceed 100 horsepower per unit, with the exception of traction and hoisting engines.

25 (c) Third-class engineers are licensed to operate steam boilers operating not in excess of 100
26 pounds per square inch gauge saturated steam pressure and water boilers operating not in excess of 160
27 pounds per square inch gauge pressure and 350 degrees F temperature.

28 (d) Agricultural-class engineers are licensed to operate steam boilers that operate not in excess of
29 150 pounds per square inch saturated steam pressure and that:

30 (i) are not operated for more than 6 months of the year; and

1 (ii) are not operated for purposes other than the harvesting or processing of agricultural products.

2 (e) Low-pressure engineers are licensed to operate steam boilers operating not in excess of 15
3 pounds per square inch gauge pressure and water boilers operating not in excess of 50 pounds per square
4 inch gauge pressure and 250 degrees F temperature.

5

6 **Section 4.** Section 50-74-304, MCA, is amended to read:

7 **"50-74-304. Requirements for engineer's license.** Each applicant for an engineer's license must
8 be physically and mentally capable of performing the required duties and shall meet the following minimum
9 requirements for the class of engineer's license for which application is being made:

10 (1) An applicant for a AN AGRICULTURAL-CLASS ENGINEER'S LICENSE OR A low-pressure
11 engineer's license must be over 18 years of age 18 YEARS OF AGE OR OLDER, must have at least 3
12 months' full-time experience in the operation of a boiler in ~~this~~ THE APPROPRIATE classification, is required
13 to successfully pass a written examination prescribed by the department of commerce, ~~have passed his~~
14 ~~18th birthday,~~ and must be found ~~to be~~ competent to operate a boiler in this classification by the
15 department of commerce.

16 (2) An applicant for a third-class engineer's license must be over 18 years of age 18 YEARS OF
17 AGE OR OLDER, must have at least 6 months' full-time experience in the operation of a boiler in this
18 classification under an engineer holding a valid third-class or higher license, is required to successfully pass
19 a written examination prescribed by the department of commerce, ~~have passed his 18th birthday,~~ and must
20 be found ~~to be~~ competent to operate a boiler in this classification by the department of commerce.

21 (3) An applicant for a second-class engineer's license must be over 18 years of age 18 YEARS OF
22 AGE OR OLDER and:

23 (a) must have at least 2 years' full-time experience in the operation of a boiler and steam-driven
24 machinery in this classification under an engineer holding a valid second-class or first-class license, is
25 required to successfully pass a written examination prescribed by the department of commerce, ~~have~~
26 ~~passed his 18th birthday,~~ and must be found ~~to be~~ competent to operate a boiler and steam-driven
27 machinery in this classification by the department of commerce; or

28 (b) shall hold a valid third-class engineer's license, ~~and~~ must have at least 1 year's full-time
29 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
30 holding a valid second-class or first-class license, is required to successfully pass a written examination

1 prescribed by the department of commerce, ~~have passed his 18th birthday~~, and must be found ~~to be~~
 2 competent to operate a boiler and steam-driven machinery in this classification by the department of
 3 commerce.

4 (4) An applicant for a first-class engineer's license must ~~be over 18 years of age~~ 18 YEARS OF
 5 AGE OR OLDER and:

6 (a) must have at least 3 years' full-time experience in the operation of a boiler and steam-driven
 7 machinery in this classification under an engineer holding a valid first-class license, is required to
 8 successfully pass a written examination prescribed by the department of commerce, ~~have passed his 18th~~
 9 ~~birthday~~, and must be found ~~to be~~ competent to operate a boiler and steam-driven machinery in this
 10 classification by the department of commerce;

11 (b) shall hold a valid second-class engineer's license, ~~and~~ must have at least 1 year's full-time
 12 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
 13 holding a valid first-class license, is required to successfully pass a written examination prescribed by the
 14 department of commerce, ~~have passed his 18th birthday~~, and must be found ~~to be~~ competent to operate
 15 a boiler and steam-driven machinery in this classification by the department of commerce; or

16 (c) shall hold a valid third-class engineer's license, ~~and~~ must have at least 2 year's full-time
 17 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer
 18 holding a valid first-class license, is required to ~~successfully passed~~ pass a written examination prescribed
 19 by the department of commerce, ~~have passed his 18th birthday~~, and must be found ~~to be~~ competent to
 20 operate a boiler and steam-driven machinery in this classification by the department of commerce."

21
 22 **Section 5.** Section 50-74-305, MCA, is amended to read:

23 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
 24 to the minimum requirements set out in 50-74-304 are as follows:

25 (1) An applicant for an engineer's license in any classification holding a valid license in that
 26 classification from another state having licensing requirements equal to or exceeding the minimum
 27 requirements set out in 50-74-304, successfully passing a written examination prescribed by the
 28 department of commerce, and found ~~to be~~ competent to operate a boiler and steam-driven machinery in
 29 that classification ~~shall~~ by the department of commerce must be granted a license in that classification.

30 (2) Operating experience in a classification accumulated in the United States military services or

1 the merchant marine service satisfactory to the department of commerce may be accepted in lieu of the
2 operating experience required for licensing of engineers in each of the license classifications.

3 (3) An applicant having training in the operation of steam or water boilers and steam machinery
4 who has been certified as having satisfactorily completed a prescribed training course from a recognized
5 vocational-technical training school or center or other department-approved institution or training program
6 in the classification for which ~~he~~ the applicant is applying may, at the discretion of the department of
7 commerce, be credited with a maximum of 6 months' experience toward a first-, second-, or third-class
8 engineer's license."

9

10 **Section 6.** Section 50-74-307, MCA, is amended to read:

11 "**50-74-307. Requirements for traction licenses.** An applicant for a traction engineer's license must
12 be over 18 years of age, must have at least 6 months' full-time experience in the operation of steam
13 traction engines, is required to successfully pass a written examination prescribed by the department of
14 commerce, have passed his 18th birthday, and must be found ~~to be~~ competent to operate a traction engine
15 by the department of commerce."

16

17 **Section 7.** Section 50-74-308, MCA, is amended to read:

18 "**50-74-308. Waiver of experience requirement for traction licenses.** The department of commerce,
19 ~~at its discretion,~~ may waive the experience requirement for operators of traction engines which that are
20 maintained and operated as a hobby for the restoration and show purposes of antique equipment."

21

22 **SECTION 8. SECTION 50-74-309, MCA, IS AMENDED TO READ:**

23 "**50-74-309. License fees.** ~~Applicants~~ (1) An applicant for an engineer's license shall pay fees a
24 fee according to the class of license for which application is made, as specified ~~in the following schedule:~~

25

(1) ~~first class~~ — ~~\$30~~

26

(2) ~~second class~~ — ~~\$20~~

27

(3) ~~third class~~ — ~~\$12~~

28

(4) ~~low pressure~~ — ~~\$ 8~~

29

(5) ~~traction~~ — ~~\$12~~

30

(6) ~~renewal of license~~ — ~~\$ 4~~

1 ~~(7) replacement of lost certificate — \$ 2 by department rule.~~

2 ~~(2) The fee is subject to the provisions of 37-1-134 and must be deposited in the state special~~
3 ~~revenue fund for the use of the department of commerce. IN THE FOLLOWING SCHEDULE:~~

4 (1) FIRST CLASS \$50

5 (2) SECOND CLASS \$40

6 (3) THIRD CLASS \$25

7 (4) AGRICULTURAL CLASS \$20

8 (5) LOW PRESSURE \$15

9 (6) TRACTION \$25

10 (7) RENEWAL OF LICENSE \$10

11 (8) REPLACEMENT OF LOST CERTIFICATE \$10"

12
13 **Section 9.** Section 50-74-312, MCA, is amended to read:

14 **"50-74-312. Review of license rejection.** ~~(1) If any person who has applied~~ An applicant for a
15 license under the provisions of this chapter ~~and whose application~~ has been rejected ~~feels aggrieved, he~~
16 ~~may, at any time after the lapse of 10 days and~~ within 45 days after the date of his ~~the~~ rejection, in writing
17 ~~set forth the causes of his grievance in writing any arguments opposing the rejection and request a~~
18 ~~department review by the department of commerce. Such~~ The request must be addressed to the
19 department of commerce and ~~shall~~ must be signed by the ~~rejected~~ applicant.

20 (2) Within 2 days after receiving ~~such~~ the request, the department of commerce shall notify the
21 applicant in writing that on a certain day, ~~which shall not be less than 5 days~~ or more than 30 days after
22 ~~the date the department receives receipt of~~ the written request, the department of commerce shall review
23 and evaluate the application and any arguments opposing the rejection of the license application.

24 (3) The applicant may appear in person at the review ~~if he so desires~~. At least 2 days before the
25 day set for the review, the applicant may designate in writing to the department of commerce the name
26 of an engineer holding a valid license of equal or higher grade ~~with~~ than the one applied for, and ~~such~~ the
27 engineer may ~~present himself in~~ testify on behalf of the applicant ~~upon the day and at the hour fixed for~~
28 at the review.

29 (4) After the review ~~is completed~~, if the department of commerce ~~decides~~ determines that the
30 applicant is entitled to the ~~license he has applied for~~ license, the department of commerce shall ~~without~~

1 ~~delay issue a the license, accordingly but, if~~ If the department rejects the applicant affirms the decision to
 2 not issue the license, it is a final rejection and he must not be granted another examination for the space
 3 of 45 days after such last rejection, when he may again apply the applicant is required to reapply to take
 4 the license examination, as provided by in 50-74-309 through 50-74-311, and may not take the
 5 examination within 45 days of the final decision to not issue the license."

6

7 **Section 10.** Section 50-74-314, MCA, is amended to read:

8 **"50-74-314. Complaints and revocation of license.** Whenever a complaint is made against an
 9 engineer ~~holding~~ who holds a license is made alleging that ~~he,~~ through negligence, want of skill, or
 10 inattention to duty, the engineer permitted ~~his~~ a boiler to burn or otherwise become in bad condition or
 11 alleging that he the engineer has been found intoxicated or under the influence of drugs while on duty, it
 12 is the duty of the department of commerce to make a thorough investigation of the charge and upon
 13 satisfactory proof of ~~such~~ the charge to revoke the license of the engineer pursuant to the contested case
 14 provisions of the Montana Administrative Procedure Act."

15

16 **Section 11.** Section 50-74-317, MCA, is amended to read:

17 **"50-74-317. When unlicensed person may operate.** (1) In case of accident, sickness, or any
 18 unforeseen ~~prevention of the event that prevents a~~ licensed engineer, employed by ~~any~~ an owner, renter,
 19 or user of an engine or boiler, from performing required duties, the owner, renter, or user may for 15 days
 20 employ any person ~~of the age of over~~ 18 years ~~or over whom he may consider~~ of age OR OLDER whom
 21 the owner, renter, or user considers competent to run the engine or boiler.

22 (2) Although ~~such~~ the person ~~is~~ employed may not be the holder of an engineer's license, ~~he~~ the
 23 person shall must have reasonable qualifications acceptable to the department of commerce.

24 (3) ~~The~~ A person ~~is~~ employing ~~the~~ an unlicensed engineer shall immediately notify the department
 25 of commerce.

26 (4) ~~No~~ An owner, renter, or user of boilers or steam machinery ~~shall be allowed to~~ may not
 27 employ unlicensed engineers for more than 15 days in any ~~one~~ 1 calendar year."

28

29 **Section 12.** Section 50-76-102, MCA, is amended to read:

30 **"50-76-102. Hoisting engine license required.** (1) (a) It is unlawful for ~~any~~ a person to operate any

1 hoisting engine driven by any power when used in lowering or hoisting personnel or material in industrial
2 operations or on construction projects without first obtaining a license ~~therefor~~ from the department of of
3 commerce.

4 (b) In emergencies under 50-74-317 relating to the employment of unlicensed engineers, the
5 provisions of that section ~~shall~~ apply to the operation of the engines and machinery named ~~herein~~ in this
6 section.

7 (2) First-class hoisting engineers ~~shall~~ must be licensed to operate hoisting engines driven by any
8 power and unlimited horsepower used in the lowering or hoisting of personnel or material in industrial
9 operations or on construction projects.

10 (3) Second-class hoisting engineers ~~shall~~ must be licensed to operate hoisting engines driven by
11 any power and not in excess of 100 brake horsepower used in the lowering or hoisting of personnel or
12 material in industrial operations or on construction projects.

13 (4) The provisions of this section ~~shall~~ do not apply to hoists and cranes defined in 50-76-103."
14

15 **Section 13.** Section 50-76-103, MCA, is amended to read:

16 **"50-76-103. Crane and hoist license required.** (1) (a) It is unlawful for a person to operate any
17 hoisting equipment, when used in hoisting or lowering personnel or material, that has a manufacturer's
18 rating of ~~above~~ MORE THAN 6 tons ~~and~~ OR AND a boom length of more than 25 feet without first
19 obtaining a license from the department of of commerce. This equipment includes overhead trolley cranes used
20 in construction only and excludes equipment with excavation attachments or log loading equipment when
21 in use.

22 (b) In emergencies, 50-74-317 ~~shall apply~~ applies to the operation of the equipment named in this
23 section.

24 (2) Licensing is as follows:

25 (a) First-class hoisting engineers are licensed to operate any hoisting equipment in industrial or
26 construction operations.

27 (b)(i) An applicant for a first-class hoisting engineer's license must be over 18 years of age 18
28 YEARS OF AGE OR OLDER and shall have:

29 (A) must have no less than 3 years' experience operating equipment requiring a second-class
30 hoisting engineer's license or shall ~~otherwise be shown to be equivalently competent~~ demonstrate

1 equivalent competency by examination; and

2 ~~(B) passed his 18th birthday; and~~

3 ~~(C)(B) is required to~~ passed pass a written test prescribed by the department of commerce.

4 (ii) An annual physical exam is required of all licensees.

5 (c) Second-class hoisting engineers are licensed to operate hoisting equipment with a
6 manufacturer's rating of 6 tons and OR AND a boom length of 25 feet up to equipment with a rating of 15
7 tons and a boom length of 60 feet.

8 (d)(i) ~~Applicants~~ An applicant for a second-class hoisting engineer's license must be over 18 years
9 of age 18 YEARS OF AGE OR OLDER and shall:

10 (A) must have no less than 2 years' experience in actual operation of hoisting equipment covered
11 by this section or shall ~~otherwise be shown to be equivalently competent~~ demonstrate equivalent
12 competency by examination; and

13 (B) is required to successfully pass a written examination prescribed by the department of
14 commerce; and

15 ~~(C) have passed their 18th birthday.~~

16 (ii) An annual physical exam is required of all licensees.

17 (e) Third-class hoisting engineers are licensed to move all truck cranes driven by any power and
18 of any capacity. This license requirement applies to truck crane oilers who move truck cranes.

19 (f) ~~Applicants~~ An applicant for a third-class hoisting engineer's license ~~shall~~ is required to
20 successfully pass a written test prescribed by the department of commerce and ~~shall~~ must be over at least
21 18 years old years of age OR OLDER before receiving ~~this a~~ license.

22 (3) The department of commerce shall reexamine each licensed engineer or operator every 5 years
23 during the anniversary month of ~~his~~ the issuance of the license if the licensee has not worked at the trade
24 for 5 years."

25

26 **Section 14.** Section 50-76-104, MCA, is amended to read:

27 "**50-76-104. Application and fee for license.** Application for licenses ~~shall~~ must be made to the
28 department of commerce ~~in the same manner and the~~ AND SUBMITTED WITH THE APPROPRIATE FEE
29 THAT IS SET COMMENSURATE WITH THE COST OF ADMINISTERING THIS PROGRAM, TO BE DEPOSITED
30 IN THE STATE SPECIAL REVENUE FUND FOR USE BY THE DEPARTMENT. THE same fee shall must be

1 charged as required by law for obtaining a license to operate steam engines, boilers, and steam-driven
2 machinery under chapter 74 of this title."

3

4 **Section 15.** Section 50-76-106, MCA, is amended to read:

5 "50-76-106. **Revocation of license.** The department of commerce may revoke any license issued
6 under this chapter for any of the reasons for which the department of commerce may revoke a license to
7 operate steam engines, boilers, or steam-driven machinery under chapter 74 of this title."

8

9 **Section 16.** Section 50-76-110, MCA, is amended to read:

10 "50-76-110. **Crane inspector.** The department of commerce shall employ at least one crane
11 inspector. ~~He~~ The crane inspector shall hold a first-class hoisting engineer's license under this chapter for
12 a minimum of 1 year and must have a minimum of 3 years' experience operating cranes."

13

-END-