

1 HOUSE BILL NO. 68

2 INTRODUCED BY SCHWINDEN

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN INDUSTRIAL SAFETY LAWS; REQUIRING
 6 SAFETY COMPLIANCE LANGUAGE TO BE EXPRESSLY STATED IN THE CONTRACT BETWEEN A
 7 CONTRACTOR AND A GOVERNMENTAL ENTITY; AUTHORIZING THE DEPARTMENT TO ESTABLISH
 8 BOILER ENGINEER LICENSE FEE SCHEDULES, INSPECTION FEE SCHEDULES, AND APPROPRIATE
 9 TRAINING COURSES BY ADMINISTRATIVE RULE; IMPOSING A FEE FOR ALL BOILER INSPECTIONS;
 10 CLARIFYING BOILER ENGINEER EXPERIENCE REQUIREMENTS; ELIMINATING HEARING OR COMPLAINT
 11 REQUIREMENTS PRIOR TO THE DEPARTMENT ORDERING WORKPLACE SAFETY IMPROVEMENTS;
 12 MODIFYING HOISTING ENGINEER LICENSE STANDARDS TO INCLUDE EITHER CRANE BOOM LENGTH OR
 13 TONNAGE RATING; AND AMENDING SECTIONS 50-71-103, 50-71-323, 50-74-101, 50-74-219,
 14 50-74-304, 50-74-305, 50-74-309, AND 50-76-103, MCA."

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

17
 18 Section 1. Section 50-71-103, MCA, is amended to read:

19 "**50-71-103. ~~Public contractors~~ Contractors subject to chapter -- contract provision required. Every**
 20 **(1) A contractor performing services for the state or any of its political subdivision thereof shall be**
 21 **subdivisions is required to comply with the safety rules, codes, and provisions of this chapter as a part of**
 22 **his the contract.**

23 **(2) The requirement imposed by subsection (1) must be expressly stated in a contract between a**
 24 **contractor and a governmental entity.**"

25
 26 Section 2. Section 50-71-323, MCA, is amended to read:

27 "**50-71-323. Order directing additions, repairs, and improvements, or changes.** (1) Whenever the
 28 department, after ~~a hearing had upon its own motion or upon complaint~~ an inspection and a closing
 29 conference with an employer, finds that an employment or place of employment is not safe or that the
 30 practices, ~~or methods, or operations, or processes employed or used in connection therewith~~ by the

1 ~~employer~~ are unsafe or do not afford adequate protection to the life and safety of ~~the~~ employees in ~~such~~
 2 ~~employments and the employment or place of employment~~, the department shall ~~make and enter and serve~~
 3 ~~such~~ issue an order relative thereto as may be necessary to render such outlining the unsafe or inadequate
 4 practices, methods, operations, or processes currently used and directing additions, repairs, improvements,
 5 or changes in the employment or place of employment ~~safe and~~ that are necessary to protect the life and
 6 safety of employees in ~~such~~ the employment and places or place of employment.

7 (2) The department may in the order direct that ~~such~~ additions, repairs, improvements, or changes
 8 be made and ~~such~~ that safety devices and safeguards be furnished, provided, and used ~~as~~ that are
 9 ~~reasonably required~~ necessary to ~~render such~~ ensure a safe employment or ~~places~~ place of employment ~~safe~~
 10 ~~in the manner and~~ within the time specified in the order."

11
 12 **Section 3.** Section 50-74-101, MCA, is amended to read:

13 **"50-74-101. Department Definition -- department to formulate adopt rules.** (1) As used in this
 14 chapter, the term "department" means the department of labor and industry.

15 (2) The department shall ~~formulate~~ adopt definitions and rules for the safe construction, installation,
 16 operation, inspection, and repair of equipment covered by this chapter. The definitions and rules ~~se~~
 17 ~~formulated shall~~ must follow generally accepted nationwide engineering standards ~~as~~ published by the
 18 American society of mechanical engineers.

19 (3) The department shall also adopt rules:

20 (a) establishing a license fee schedule for engineers;

21 (b) establishing a fee schedule for inspections; and

22 (c) identifying training courses that may provide credit toward experience requirements."

23
 24 **Section 4.** Section 50-74-219, MCA, is amended to read:

25 **"50-74-219. Fee for special inspection.** ~~Whenever, upon request of the owner or operator of any~~
 26 ~~boiler, it is necessary for the~~ a department inspector ~~to make a special trip for the inspection of the~~ inspects
 27 a boiler, the mileage and per diem allowed fee set by law shall rule must be charged and collected by the
 28 department prior to issuance of an inspection certificate."

29
 30 **Section 5.** Section 50-74-304, MCA, is amended to read:

1 **"50-74-304. Requirements for engineer's license.** Each applicant for an engineer's license must
2 be physically and mentally capable of performing the required duties and must meet the following minimum
3 requirements for the class of engineer's license for which application is being made:

4 (1) An applicant for a low-pressure engineer's license must have at least 3 months' full-time
5 experience in the operation of a boiler in this classification under an engineer who holds a valid low-pressure
6 or higher license, have successfully ~~pass~~ passed a written examination prescribed by the department, ~~have~~
7 ~~passed his 18th birthday~~ be 18 years of age or older, and be found to be competent to operate a boiler in
8 this classification.

9 (2) An applicant for a third-class engineer's license must have at least 6 months' full-time
10 experience in the operation of a boiler in this classification under an engineer ~~holding~~ who holds a valid
11 third-class or higher license, have successfully ~~pass~~ passed a written examination prescribed by the
12 department, ~~have passed his 18th birthday~~ be 18 years of age or older, and be found to be competent to
13 operate a boiler in this classification.

14 (3) An applicant for a second-class engineer's license must:

15 (a) have at least 2 years' full-time experience in the operation of a boiler and steam-driven
16 machinery in this classification under an engineer ~~holding~~ who holds a valid second-class or first-class
17 license, have successfully ~~pass~~ passed a written examination prescribed by the department, ~~have passed~~
18 ~~his 18th birthday~~ be 18 years of age or older, and be found to be competent to operate a boiler and
19 steam-driven machinery in this classification; or

20 (b) hold a valid third-class engineer's license, ~~and~~ have at least 1 year's full-time experience in the
21 operation of a boiler and steam-driven machinery in this classification under an engineer ~~holding~~ who holds
22 a valid second-class or first-class license, have successfully ~~pass~~ passed a written examination prescribed
23 by the department, ~~have passed his 18th birthday~~ be 18 years of age or older, and be found to be
24 competent to operate a boiler and steam-driven machinery in this classification.

25 (4) An applicant for a first-class engineer's license must:

26 (a) have at least 3 years' full-time experience in the operation of a boiler and steam-driven
27 machinery in this classification under an engineer ~~holding~~ who holds a valid first-class license, have
28 successfully ~~pass~~ passed a written examination prescribed by the department, ~~have passed his 18th~~
29 ~~birthday~~ be 18 years of age or older, and be found to be competent to operate a boiler and steam-driven
30 machinery in this classification;

1 (b) hold a valid second-class engineer's license, ~~and~~ have at least 1 year's full-time experience in
 2 the operation of a boiler and steam-driven machinery in this classification under an engineer ~~holding who~~
 3 holds a valid first-class license, have successfully ~~pass~~ passed a written examination prescribed by the
 4 department, ~~have passed his 18th birthday~~ be 18 years of age or older, and be found to be competent to
 5 operate a boiler and steam-driven machinery in this classification; or

6 (c) hold a valid third-class engineer's license, ~~and~~ have at least 2 ~~year's~~ years' full-time experience
 7 in the operation of a boiler and steam-driven machinery in this classification under an engineer ~~holding who~~
 8 holds a valid first-class license, have successfully passed a written examination prescribed by the
 9 department, ~~have passed his 18th birthday~~ be 18 years of age or older, and be found to be competent to
 10 operate a boiler and steam-driven machinery in this classification."
 11

12 **Section 6.** Section 50-74-305, MCA, is amended to read:

13 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
 14 to the minimum requirements ~~set out~~ listed in 50-74-304 are as follows:

15 (1) An applicant for an engineer's license in any classification ~~holding who holds~~ holds a valid license in
 16 that classification from another state ~~having that has~~ has licensing requirements equal to or exceeding the
 17 minimum requirements set out in 50-74-304, who successfully ~~passing~~ passes a written examination
 18 prescribed by the department, and who is found to be competent to operate a boiler and steam-driven
 19 machinery in that classification ~~shall~~ must be granted a license in that classification.

20 (2) Operating experience ~~in a classification that is~~ is accumulated in the United States military
 21 services or the merchant marine service and that is satisfactory to the department may be accepted in lieu
 22 of the operating experience required for licensing of engineers in each of the license classifications.

23 (3) An applicant ~~having who has~~ has training in the operation of steam or water boilers and steam
 24 machinery and who has been certified as having satisfactorily completed a prescribed training course from
 25 a recognized vocational-technical training school or center or other department-approved institution or
 26 training program in the classification for which ~~he~~ the applicant is applying may, ~~at the discretion of the~~
 27 pursuant to department rule, be credited with ~~a maximum of 6 months'~~ experience toward a first-, second-,
 28 or third-class or low-pressure engineer's license."
 29

30 **Section 7.** Section 50-74-309, MCA, is amended to read:

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

3 ~~(1) first class \$30~~

4 ~~(2) second class \$20~~

5 ~~(3) third class \$12~~

6 ~~(4) low pressure \$8~~

7 ~~(5) traction \$12~~

8 ~~(6) renewal of license \$4~~

9 ~~(7) replacement of lost certificate \$2~~ by department rule."

10
 11 **Section 8.** Section 50-76-103, MCA, is amended to read:

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

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

19 (2) Licensing is as follows:

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

22 (b) (i) An applicant for a first-class hoisting engineer's license ~~shall have~~ must:

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

25 (B) ~~passed his 18th birthday~~ be 18 years of age or older; and

26 (C) have successfully passed a written test prescribed by the department.

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

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

1 (d) (i) Applicants for a second-class hoisting engineer's license ~~shall~~ must:

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

4 (B) have successfully ~~pass~~ passed a written examination prescribed by the department; and

5 (C) ~~have passed their 18th birthday~~ be 18 years of age or older.

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

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

9 (f) Applicants for a third-class hoisting engineer's license ~~shall~~ must have successfully pass passed
10 a written test prescribed by the department and ~~shall~~ must be ~~at least~~ 18 years old of age or older before
11 receiving ~~this~~ a license.

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

14

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0068, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill revising certain industrial safety laws; requiring safety compliance language to be expressly stated in contract between a contractor and governmental entity; authorizing the department to establish boiler engineer license fee schedules, inspection fee schedules, and appropriate training courses by administrative rule; imposing a fee for all boiler inspections; clarifying boiler engineer experience requirements; eliminating hearing or complaint requirements prior to the department ordering workplace safety improvements; and modifying hoisting engineer license standards to include either crane boom length or tonnage rating.

ASSUMPTIONS:

1. This is a housekeeping bill at the request of the Department of Labor and Industry.
2. Currently, administration of licensing and inspection functions is partially supported by license and inspection fees and about \$36,000 of Workers' Compensation Assessment fees are subsidizing the balance of the functions.
3. During the 1997 biennium the license and inspection fees will begin to pay complete program costs and there will be a corresponding reduction in fees from Plan I, Plan II and Plan III insurance providers.

FISCAL IMPACT:

There is no impact other than the revenue shift.

TECHNICAL NOTES:

HB66 as introduced transfers the licensing for boiler engineers to the Department of Commerce whereas HB68 allows the Department of Labor and Industry to adopt rules and set fees. HB66 and HB68 may require technical coordination.

David Lewis 1-9-95-

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Dore Schwinden 1-9-95

DORE SCHWINDEN, PRIMARY SPONSOR DATE

Fiscal Note for HB0068, as introduced

HB 68

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

HOUSE BILL NO. 68

INTRODUCED BY SCHWINDEN

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN INDUSTRIAL SAFETY LAWS; REQUIRING SAFETY COMPLIANCE LANGUAGE TO BE EXPRESSLY STATED IN THE CONTRACT BETWEEN A CONTRACTOR AND A GOVERNMENTAL ENTITY; AUTHORIZING THE DEPARTMENT TO ESTABLISH BOILER ~~ENGINEER LICENSE FEE SCHEDULES,~~ INSPECTION FEE SCHEDULES, ~~AND APPROPRIATE TRAINING COURSES~~ BY ADMINISTRATIVE RULE; IMPOSING A FEE FOR ALL BOILER INSPECTIONS; ~~CLARIFYING BOILER ENGINEER EXPERIENCE REQUIREMENTS;~~ ELIMINATING HEARING OR COMPLAINT REQUIREMENTS PRIOR TO THE DEPARTMENT ORDERING WORKPLACE SAFETY IMPROVEMENTS; ~~MODIFYING HOISTING ENGINEER LICENSE STANDARDS TO INCLUDE EITHER CRANE BOOM LENGTH OR TONNAGE RATING;~~ AND AMENDING SECTIONS 50-71-103, 50-71-323, 50-74-101, 50-74-219, ~~50-74-304, AND~~ 50-74-305, ~~50-74-309, AND 50-76-103,~~ MCA."

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

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"50-71-103. ~~Public contractors~~ **Contractors** subject to chapter -- contract provision required. Every (1) A contractor performing services for the state or any of its political subdivision thereof shall be subdivisions is required to comply with the safety rules, codes, and provisions of this chapter as a part of his the contract.

(2) The requirement imposed by subsection (1) must be expressly stated in a contract between a contractor and a governmental entity."

Section 2. Section 50-71-323, MCA, is amended to read:

"50-71-323. **Order directing additions, repairs, and improvements, or changes.** (1) Whenever the department, after a hearing had upon its own motion or upon complaint an inspection and a closing conference with an employer AND AN EMPLOYEE REPRESENTATIVE, finds that an employment or place of employment is not safe or that the practices, or methods, or operations, or processes employed or used

1 ~~in connection therewith~~ by the employer are unsafe or do not afford adequate protection to the life and
 2 safety of the employees in ~~such employments and the employment or~~ place of employment, the department
 3 shall ~~make and enter and serve such~~ issue an order ~~relative thereto as may be necessary to render such~~
 4 outlining the unsafe or inadequate practices, methods, operations, or processes currently used and directing
 5 additions, repairs, improvements, or changes in the employment or place of employment ~~safe and that are~~
 6 necessary to protect the life and safety of employees in ~~such the~~ employment and places or place of
 7 employment.

8 (2) The department may in the order direct that ~~such~~ additions, repairs, improvements, or changes
 9 be made and ~~such~~ that safety devices and safeguards be furnished, provided, and used ~~as~~ that are
 10 ~~reasonably required~~ necessary to render such ensure a safe employment or ~~places~~ place of employment ~~safe~~
 11 ~~in the manner and~~ within the time specified in the order."

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13 **Section 3.** Section 50-74-101, MCA, is amended to read:

14 **"50-74-101. Department Definition -- department to formulate adopt rules.** (1) As used in this
 15 chapter, the term "department" means the department of labor and industry.

16 (2) The department shall ~~formulate adopt~~ definitions and rules for the safe construction, installation,
 17 operation, inspection, and repair of equipment covered by this chapter. The definitions and rules ~~se~~
 18 ~~formulated shall~~ must follow generally accepted nationwide engineering standards ~~as~~ published by the
 19 American society of mechanical engineers.

20 (3) The department shall also adopt rules:

21 ~~(a) establishing a license fee schedule for engineers;~~

22 ~~(b) establishing a fee schedule for inspections; and~~

23 ~~(c) identifying training courses that may provide credit toward experience requirements."~~

24

25 **Section 4.** Section 50-74-219, MCA, is amended to read:

26 **"50-74-219. Fee for special inspection.** Whenever, ~~upon request of the owner or operator of any~~
 27 ~~boiler, it is necessary for the~~ a department inspector ~~to make a special trip for the inspection of the~~ inspects
 28 a boiler, the mileage and per diem allowed fee set by law shall rule must be charged and collected by the
 29 department prior to issuance of an inspection certificate."

30

1 ~~Section 5. Section 50-74-304, MCA, is amended to read:~~

2 ~~"50-74-304. Requirements for engineer's license. Each applicant for an engineer's license must~~
3 ~~be physically and mentally capable of performing the required duties and must meet the following minimum~~
4 ~~requirements for the class of engineer's license for which application is being made:~~

5 ~~(1) An applicant for a low pressure engineer's license must have at least 3 months' full time~~
6 ~~experience in the operation of a boiler in this classification under an engineer who holds a valid low pressure~~
7 ~~or higher license, have successfully pass passed a written examination prescribed by the department, have~~
8 ~~passed his 18th birthday be 18 years of age or older, and be found to be competent to operate a boiler in~~
9 ~~this classification.~~

10 ~~(2) An applicant for a third class engineer's license must have at least 6 months' full time~~
11 ~~experience in the operation of a boiler in this classification under an engineer holding who holds a valid~~
12 ~~third class or higher license, have successfully pass passed a written examination prescribed by the~~
13 ~~department, have passed his 18th birthday be 18 years of age or older, and be found to be competent to~~
14 ~~operate a boiler in this classification.~~

15 ~~(3) An applicant for a second class engineer's license must:~~

16 ~~(a) have at least 2 years' full time experience in the operation of a boiler and steam driven~~
17 ~~machinery in this classification under an engineer holding who holds a valid second class or first class~~
18 ~~license, have successfully pass passed a written examination prescribed by the department, have passed~~
19 ~~his 18th birthday be 18 years of age or older, and be found to be competent to operate a boiler and~~
20 ~~steam driven machinery in this classification; or~~

21 ~~(b) hold a valid third class engineer's license, and have at least 1 year's full time experience in the~~
22 ~~operation of a boiler and steam driven machinery in this classification under an engineer holding who holds~~
23 ~~a valid second class or first class license, have successfully pass passed a written examination prescribed~~
24 ~~by the department, have passed his 18th birthday be 18 years of age or older, and be found to be~~
25 ~~competent to operate a boiler and steam driven machinery in this classification.~~

26 ~~(4) An applicant for a first class engineer's license must:~~

27 ~~(a) have at least 3 years' full time experience in the operation of a boiler and steam driven~~
28 ~~machinery in this classification under an engineer holding who holds a valid first class license, have~~
29 ~~successfully pass passed a written examination prescribed by the department, have passed his 18th~~
30 ~~birthday be 18 years of age or older, and be found to be competent to operate a boiler and steam driven~~

1 machinery in this classification;

2 ~~(b) hold a valid second class engineer's license, and have at least 1 year's full time experience in~~
 3 ~~the operation of a boiler and steam driven machinery in this classification under an engineer holding who~~
 4 ~~holds a valid first class license, have successfully pass passed a written examination prescribed by the~~
 5 ~~department, have passed his 18th birthday be 18 years of age or older, and be found to be competent to~~
 6 ~~operate a boiler and steam driven machinery in this classification; or~~

7 ~~(c) hold a valid third class engineer's license, and have at least 2 year's years' full time experience~~
 8 ~~in the operation of a boiler and steam driven machinery in this classification under an engineer holding who~~
 9 ~~holds a valid first class license, have successfully passed a written examination prescribed by the~~
 10 ~~department, have passed his 18th birthday be 18 years of age or older, and be found to be competent to~~
 11 ~~operate a boiler and steam driven machinery in this classification."~~

12

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

14 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
 15 to the minimum requirements ~~set out~~ listed in 50-74-304 are as follows:

16 (1) An applicant for an engineer's license in any classification ~~holding~~ who holds a valid license in
 17 that classification from another state ~~having~~ that has licensing requirements equal to or exceeding the
 18 minimum requirements set out in 50-74-304, who ~~successfully~~ passes ~~passing~~ a written examination
 19 prescribed by the department, and who is found to be competent to operate a boiler and steam-driven
 20 machinery in that classification ~~shall~~ must be granted a license in that classification.

21 (2) Operating experience ~~in a classification~~ that is accumulated in the United States military
 22 services or the merchant marine service and that is satisfactory to the department may be accepted in lieu
 23 of the operating experience required for licensing of engineers in each of the license classifications.

24 (3) An applicant ~~having~~ who has training in the operation of steam or water boilers and steam
 25 machinery and who has been certified as having satisfactorily completed a prescribed training course from
 26 a recognized vocational-technical training school or center or other department-approved institution or
 27 training program in the classification for which ~~he~~ the applicant is applying may, ~~at the discretion of the~~
 28 pursuant to department rule, be credited with ~~a maximum of 6 months'~~
 29 or third-class or low-pressure engineer's license."
 30

1 ~~Section 7.~~ Section 50-74-309, MCA, is amended to read:

2 ~~"50-74-309. License fees. Applicants~~ An applicant for an engineer's license shall pay fees a fee
3 according to the class of license for which application is made, as specified in the following schedule:

4 (1) ~~first class \$30~~

5 (2) ~~second class \$20~~

6 (3) ~~third class \$12~~

7 (4) ~~low pressure \$8~~

8 (5) ~~traction \$12~~

9 (6) ~~renewal of license \$4~~

10 (7) ~~replacement of lost certificate \$2~~ by department rule."

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12 ~~Section 8.~~ Section 50-76-103, MCA, is amended to read:

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

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

20 (2) ~~Licensing is as follows:~~

21 (a) ~~First class hoisting engineers are licensed to operate any hoisting equipment in industrial or~~
22 ~~construction operations.~~

23 (b) (i) ~~An applicant for a first class hoisting engineer's license shall have~~ must:

24 (A) ~~have no less than 3 years' experience operating equipment requiring a second class hoisting~~
25 ~~engineer's license or shall otherwise be shown to be equivalently competent by examination;~~

26 (B) ~~passed his 18th birthday~~ be 18 years of age or older; and

27 (C) ~~have successfully passed a written test prescribed by the department.~~

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

29 (c) ~~Second class hoisting engineers are licensed to operate hoisting equipment with a~~
30 ~~manufacturer's rating of 6 tons and or a boom length of 25 feet up to equipment with a rating of 15 tons~~

1 ~~and or a boom length of 60 feet.~~

2 ~~(d) (i) Applicants for a second-class hoisting engineer's license shall must:~~

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

5 ~~(B) have successfully pass passed a written examination prescribed by the department; and~~

6 ~~(C) have passed their 18th birthday be 18 years of age or older.~~

7 ~~(iii) An annual physical exam is required of all licensees.~~

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

10 ~~(f) Applicants for a third-class hoisting engineer's license shall must have successfully pass passed~~
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12 ~~receiving this a license.~~

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1 ~~in connection therewith~~ by the employer are unsafe or do not afford adequate protection to the life and
 2 safety of ~~the employees in such employments and~~ the employment or place of employment, the department
 3 shall ~~make and enter and serve such~~ issue an order relative thereto ~~as may be necessary to render such~~
 4 outlining the unsafe or inadequate practices, methods, operations, or processes currently used and directing
 5 additions, repairs, improvements, or changes in the employment or place of employment ~~safe and that are~~
 6 necessary to protect the life and safety of employees in ~~such~~ the employment and places or place of
 7 employment.

8 (2) The department may in the order direct that ~~such~~ additions, repairs, improvements, or changes
 9 be made and ~~such~~ that safety devices and safeguards be furnished, provided, and used ~~as~~ that are
 10 ~~reasonably required~~ necessary to render such ensure a safe employment or places place of employment ~~safe~~
 11 ~~in the manner and~~ within the time specified in the order."

12

13 ~~Section 3. Section 50-74-101, MCA, is amended to read:~~

14 ~~"50-74-101. Department Definition — department to formulate adopt rules. (1) As used in this~~
 15 ~~chapter, the term "department" means the department of labor and industry.~~

16 ~~(2) The department shall formulate adopt definitions and rules for the safe construction, installation,~~
 17 ~~operation, inspection, and repair of equipment covered by this chapter. The definitions and rules so~~
 18 ~~formulated shall must follow generally accepted nationwide engineering standards as published by the~~
 19 ~~American society of mechanical engineers.~~

20 ~~(3) The department shall also adopt rules:~~

21 ~~(a) establishing a license fee schedule for engineers;~~

22 ~~(b) establishing a fee schedule for inspections.; and~~

23 ~~(c) identifying training courses that may provide credit toward experience requirements."~~

24

25 ~~Section 3. Section 50-74-219, MCA, is amended to read:~~

26 ~~"50-74-219. Fee for special inspection. Whenever, upon request of the owner or operator of any~~
 27 ~~boiler, it is necessary for the a department inspector to make a special trip for the inspection of the~~ inspects
 28 a boiler, the A mileage and per diem allowed fee set by law shall rule must be charged and collected by the
 29 department prior to issuance of an inspection certificate IN ACCORDANCE WITH THE FOLLOWING
 30 SCHEDULE:

- 1 (1) OPERATING CERTIFICATE, \$20;
- 2 (2) INTERNAL INSPECTION, \$40;
- 3 (3) EXTERNAL INSPECTION:
- 4 (A) HOT WATER HEATING SUPPLY, \$15;
- 5 (B) STEAM HEATING, \$20; AND
- 6 (C) POWER BOILER, \$30; AND
- 7 (4) SPECIAL INSPECTION, \$50 PER HOUR PLUS EXPENSES."

8

9 ~~Section 5. Section 50-74-304, MCA, is amended to read:~~

10 ~~"50-74-304. Requirements for engineer's license. Each applicant for an engineer's license must~~
11 ~~be physically and mentally capable of performing the required duties and must meet the following minimum~~
12 ~~requirements for the class of engineer's license for which application is being made:~~

13 ~~(1) An applicant for a low pressure engineer's license must have at least 3 months' full-time~~
14 ~~experience in the operation of a boiler in this classification under an engineer who holds a valid low pressure~~
15 ~~or higher license, have successfully pass passed a written examination prescribed by the department, have~~
16 ~~passed his 18th birthday be 18 years of age or older, and be found to be competent to operate a boiler in~~
17 ~~this classification.~~

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

23 ~~(3) An applicant for a second class engineer's license must:~~

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

29 ~~(b) hold a valid third class engineer's license, and have at least 1 year's full-time experience in the~~
30 ~~operation of a boiler and steam driven machinery in this classification under an engineer holding who holds~~

1 a valid second class or first class license, ~~have successfully pass~~ passed a written examination prescribed
 2 by the department, ~~have passed his 18th birthday~~ be 18 years of age or older, and be found to be
 3 competent to operate a boiler and steam driven machinery in this classification.

4 (4) ~~An applicant for a first class engineer's license must:~~

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

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

15 (c) ~~hold a valid third class engineer's license,~~ and have at least 2 year's ~~years'~~ full time experience
 16 in the operation of a boiler and steam driven machinery in this classification under an engineer holding who
 17 holds a valid first class license, ~~have successfully passed~~ a written examination prescribed by the
 18 department, ~~have passed his 18th birthday~~ be 18 years of age or older, and be found to be competent to
 19 operate a boiler and steam driven machinery in this classification."

20

21 **Section 4.** Section 50-74-305, MCA, is amended to read:

22 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
 23 to the minimum requirements ~~set out~~ listed in 50-74-304 are as follows:

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

29 (2) Operating experience ~~in a classification~~ that is accumulated in the United States military
 30 services or the merchant marine service and that is satisfactory to the department may be accepted in lieu

1 of the operating experience required for licensing of engineers in each of the license classifications.

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

8

9 ~~Section 7. Section 50-74-309, MCA, is amended to read:~~

10 ~~"50-74-309. License fees. Applicants~~ An applicant for an engineer's license shall pay fees a fee
11 according to the class of license for which application is made, as specified in the following schedule:

12 ~~(1) first class \$30~~

13 ~~(2) second class \$20~~

14 ~~(3) third class \$12~~

15 ~~(4) low pressure \$8~~

16 ~~(5) traction \$12~~

17 ~~(6) renewal of license \$4~~

18 ~~(7) replacement of lost certificate \$2 by department rule."~~

19

20 ~~Section 8. Section 50-76-103, MCA, is amended to read:~~

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

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

28 ~~(2) Licensing is as follows:~~

29 ~~(a) First class hoisting engineers are licensed to operate any hoisting equipment in industrial or~~
30 ~~construction operations.~~

- 1 ~~(b) (i) An applicant for a first class hoisting engineer's license shall have must:~~
2 ~~(A) have no less than 3 years' experience operating equipment requiring a second class hoisting~~
3 ~~engineer's license or shall otherwise be shown to be equivalently competent by examination;~~
4 ~~(B) passed his 18th birthday be 18 years of age or older; and~~
5 ~~(C) have successfully passed a written test prescribed by the department.~~
6 ~~(ii) An annual physical exam is required of all licensees.~~
7 ~~(c) Second class hoisting engineers are licensed to operate hoisting equipment with a~~
8 ~~manufacturer's rating of 6 tons and or a boom length of 25 feet up to equipment with a rating of 15 tons~~
9 ~~and or a boom length of 60 feet.~~
10 ~~(d) (i) Applicants for a second class hoisting engineer's license shall must:~~
11 ~~(A) have no less than 2 years' experience in actual operation of hoisting equipment covered by this~~
12 ~~section or shall otherwise be shown to be equivalently competent by examination;~~
13 ~~(B) have successfully pass passed a written examination prescribed by the department; and~~
14 ~~(C) have passed their 18th birthday be 18 years of age or older.~~
15 ~~(ii) An annual physical exam is required of all licensees.~~
16 ~~(e) Third class hoisting engineers are licensed to move all truck cranes driven by any power and~~
17 ~~of any capacity. This license requirement applies to truck crane oilers who move truck cranes.~~
18 ~~(f) Applicants for a third class hoisting engineer's license shall must have successfully pass passed~~
19 ~~a written test prescribed by the department and shall must be at least 18 years old of age or older before~~
20 ~~receiving this a license.~~
21 ~~(3) The department shall reexamine each licensed engineer or operator every 5 years during the~~
22 ~~anniversary month of his the license if the licensee has not worked at the trade for 5 years."~~

23

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 14
March 15, 1995

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration HB 68 (third reading copy -- blue), respectfully report that HB 68 be amended as follows and as so amended be concurred in.

Signed: 
Senator Thomas F. Keating, Chair

That such amendments read:

1. Title, line 5

Following: "ACT"

Insert: "GENERALLY"

Strike: "CERTAIN"

Following: "LAWS;"

Insert: "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 OF COMMERCE TO ESTABLISH APPROPRIATE TRAINING COURSES; CLARIFYING BOILER ENGINEER EXPERIENCE REQUIREMENTS; ESTABLISHING A NEW CLASS OF LICENSE FOR SEASONAL AGRICULTURAL PURPOSES; TRANSFERRING LICENSURE FUNCTIONS OF THE FIRE PREVENTION AND INVESTIGATION PROGRAM FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF COMMERCE; TRANSFERRING BOILER SAFETY AND INSPECTIONS FROM THE DEPARTMENT OF LABOR AND INDUSTRY TO THE DEPARTMENT OF COMMERCE;"

2. Title, line 13.

Strike: "AND"

Following: "SECTIONS"

Insert: "37-72-101, 39-71-201, 50-5-115, 50-39-101, 50-39-102, 50-39-103, 50-39-104, 50-39-106, 50-39-107,"

Following: "~~50-74-101,~~"

Insert: "50-74-101,"

3. Title, line 14.

Strike: "AND"

Insert: "50-74-303, 50-74-304,"


Following: "50-74-305,"


Insert: "50-74-307, 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,"

Following: "MCA"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"


Amd. Coord.

 Sec. of Senate


Senator Carrying Bill

HB 68

SENATE

4. Page 1, line 18 through page 6, line 22.

Strike: everything following the enacting clause

Insert: "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.

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

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

Section 2. Section 39-71-201, MCA, is amended to read:

"39-71-201. Administration fund. (1) A workers' compensation administration fund is established out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the various occupational safety acts the department and the boiler inspections the department of commerce must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907, and the uninsured employers' fund, are to be paid upon lawful appropriation. The following money collected by the department must be deposited in the state treasury to the credit of the workers' compensation administrative fund and must be used for the administrative expenses of the department and, for the biennium ending June 30,

1997, for the administrative expenses of the department of commerce for the purposes of 50-74-101:

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

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

(c) all fees paid from an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No. 3, the state fund. The assessments must be levied against the preceding calendar year's gross annual payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on the policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding calendar year. However, an assessment of the plan No. 1 employer or plan No. 2 insurer may not be less than \$200. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the direct costs identified to the three plans and an equitable portion of the indirect costs based on the ratio of the preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost allocation procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an equitable portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including unexpended funds from the preceding fiscal year, must be used to reduce the costs before levying the assessments.

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

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

Section 3. Section 50-5-115, MCA, is amended to read:

"50-5-115. Receiverships. (1) If receivership has not already been instituted under medicaid or medicare, upon notice to the facility, the department may file a complaint in district court for receivership under any of the following conditions in addition to applicable conditions listed in 27-20-102:

(a) a facility is operating without a license and residents are in danger of serious physical or mental harm;

(b) a facility intending to close has not made arrangements within 30 days before closure for the orderly transfer of

residents;

(c) a facility is abandoned by an owner; or

(d) a life threatening situation exists for the residents of the facility.

(2) If the department believes or has received notice from the department of justice that there is an emergency that presents or might present an immediate and serious threat to the health or safety of patients or residents of a facility, a receiver may be appointed by the court upon an ex parte application by the department. If a receiver is appointed upon an ex parte application, notice must be given by the department to the facility within 24 hours of issuance of the receivership order and a hearing must be offered the facility by the court within 10 days of issuance of the order to determine whether the order will be continued.

(3) The department shall maintain a list of persons qualified to act as receivers.

(4) The selection, appointment, and removal of receivers must be consistent with Title 27, chapter 20, parts 2 and 3.

(5) Whenever possible, receivers must be paid from the income of the facility~~+~~. ~~however~~ However, receivers may be paid from the patient protection account provided for in 50-5-232. The court shall direct the amount of payments to be made to the receiver, the payments to be made by the receiver, and the order of payments made to the receiver or to other entities. Payments owed to a facility that are made to the receiver must be used to discharge any obligation of the entity making the payments owed to the facility.

(6) The powers and duties of the receiver include:

(a) the duty to protect the health, welfare, and safety of the residents;

(b) the power to hire, discipline, and fire staff;

(c) the power to collect debts due to the facility;

(d) the power to settle labor disputes;

(e) the power to petition the court to set aside unreasonable contracts or leases entered into by the facility management;

(f) the power to make capital investments in the facility with court approval; and

(g) all other powers granted receivers by 27-20-302."

Section 4. Section 50-39-101, MCA, is amended to read:

"50-39-101. License and endorsements required. (1) A person or entity shall obtain a license from the department of justice commerce before engaging in the business of servicing fire extinguishers or before engaging in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression systems, or fire extinguishing systems. Each

individual, except an apprentice, employed by the licensee to perform services under the license ~~must~~ shall obtain from the department an endorsement to sell, service, or install:

- (a) fire alarm systems;
- (b) special agent fire suppression systems; or
- (c) fire extinguishing systems.

(2) The license and endorsement or endorsements must be prominently displayed at the business premises, and copies must be carried by the person conducting each installation or servicing and must be shown to anyone requesting to see them.

(3) It is a misdemeanor to knowingly or purposely service a fire extinguisher or sell, service, or install a fire alarm system, special agent fire suppression system, or fire extinguishing system without the required license and endorsement."

Section 5. Section 50-39-102, MCA, is amended to read:

"50-39-102. Application for license and endorsements. (1) An application for a license and any endorsements must be made on a form prescribed by the department of ~~justice~~ commerce.

(2) The department shall annually issue a license and endorsement to an applicant who:

(a) submits satisfactory proof that the applicant is properly equipped and staffed to provide the sales or services to be licensed and endorsed; and

(b) submits satisfactory proof that the applicant is insured to engage in the business covered by the license and endorsement or endorsements.

(3) The department shall:

(a) issue an endorsement to an applicant who scores a passing grade on an examination devised or approved by the department; and

(b) annually renew the endorsement upon payment of the endorsement fee and submission of satisfactory proof that the endorsee has completed continuing education, training, or testing required by the department."

Section 6. Section 50-39-103, MCA, is amended to read:

"50-39-103. Inspections, examinations, and hearings authorized. ~~The~~ When requested by the department of ~~justice~~ commerce ~~may,~~ the department of justice shall conduct inspections, of the applicant's business facilities and shall report to the department of commerce the results of its inspection. The department of commerce may consider the inspection report and conduct examinations, or hearings to determine an applicant's qualifications."

Section 7. Section 50-39-104, MCA, is amended to read:

"50-39-104. Violations and penalties. The department of ~~justice~~ commerce may deny, revoke, suspend, or refuse to renew a license or endorsement for falsification of an application or for a violation of this part or a rule promulgated by the department under 50-39-107."

Section 8. Section 50-39-106, MCA, is amended to read:

"50-39-106. Deposit of fees. The fees collected under 50-39-105 must be deposited in an account in the state special revenue fund to the credit of the department of ~~justice~~ commerce and appropriated to the ~~department~~ department of commerce and the department of justice to administer this part."

Section 9. Section 50-39-107, MCA, is amended to read:

"50-39-107. Rulemaking authority. The department of ~~justice~~ commerce may adopt rules to implement this part."

Section 10. Section 50-71-103, MCA, is amended to read:

"50-71-103. ~~Public contractors~~ Contractors subject to chapter -- contract provision required. Every (1) A contractor performing services for the state or any of its political subdivision thereof shall be subdivisions is required to comply with the safety rules, codes, and provisions of this chapter as a part of his the contract.

(2) The requirement imposed by subsection (1) must be expressly stated in a contract between a contractor and a governmental entity."

Section 11. Section 50-71-323, MCA, is amended to read:

"50-71-323. Order directing additions, repairs, and improvements, or changes. (1) Whenever the department, after a hearing had upon its own motion or upon complaint an inspection and a closing conference with an employer and an employee representative, finds that an employment or place of employment is not safe or that the practices, or methods, or operations, or processes employed or used in connection therewith by the employer are unsafe or do not afford adequate protection to the life and safety of the employees in such employments and the employment or place of employment, the department shall make and enter and serve such issue an order relative thereto as may be necessary to render such outlining the unsafe or inadequate practices, methods, operations, or processes currently used and directing additions, repairs, improvements, or changes in the employment or place of employment safe and that are necessary to protect the life and safety of employees in such the employment and places or place of employment.

(2) The department may in the order direct that such additions, repairs, improvements, or changes be made and such

that safety devices and safeguards be furnished, provided, and used as that are reasonably required necessary to render such ensure a safe employment or places place of employment safe in the manner and within the time specified in the order."

Section 12. Section 50-74-101, MCA, is amended to read:

"50-74-101. Department Definition -- department to formulate rules. (1) As used in this chapter, the term "department" means the department of commerce.

(2) The department shall formulate adopt definitions and rules for the safe construction, installation, operation, inspection, and repair of equipment covered by this chapter. The definitions and rules so formulated shall must follow generally accepted nationwide engineering standards as published by the American society of mechanical engineers."

Section 13. Section 50-74-219, MCA, is amended to read:

"50-74-219. Fee for special inspection. Whenever, upon request of the owner or operator of any boiler, it is necessary for the a department inspector to make a special trip for the inspection of the inspects a boiler, the a mileage and per diem allowed fee by law shall must be charged and collected by the department prior to issuance of an inspection certificate in accordance with the following schedule:

- (1) operating certificate, \$20;
- (2) internal inspection, \$40;
- (3) external inspection:
 - (a) hot water heating and supply, \$15;
 - (b) steam heating, \$20; and
 - (c) power boiler, \$30; and
- (4) special inspection, \$50 per hour plus expenses."

Section 14. Section 50-74-303, MCA, is amended to read:

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

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

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

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

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

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

(i) are not operated for more than 6 months of the year; and
(ii) are not operated for purposes other than the harvesting or processing of agricultural products.

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

Section 15. Section 50-74-304, MCA, is amended to read:

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

(1) An applicant for a low-pressure engineer's license must be 18 years of age or older, must have at least 3 months' full-time experience in the operation of a boiler in this classification, under an engineer who holds a valid low-pressure or higher license, is required to successfully pass a written examination prescribed by the department, have passed his 18th birthday, and must be found to be competent to operate a boiler in this classification by the department.

(2) An applicant for an agricultural-class engineer's license must be 18 years of age or older, is required to successfully pass a written examination prescribed by the department, and must be found to be competent to operate a boiler in this classification.

~~(2)~~ (3) An applicant for a third-class engineer's license must be 18 years of age or older, must have at least 6 months' full-time experience in the operation of a boiler in this classification under an engineer holding a valid third-class or higher license, is required to successfully pass a written

examination prescribed by the department, ~~have passed his 18th birthday,~~ and must be found ~~to be~~ competent to operate a boiler in this classification by the department.

~~(3)~~(4) An applicant for a second-class engineer's license must be 18 years of age or older and:

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

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

~~(4)~~(5) An applicant for a first-class engineer's license must be 18 years of age or older and:

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

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

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

Section 16. Section 50-74-305, MCA, is amended to read:

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

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

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

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

Section 17. Section 50-74-307, MCA, is amended to read:

"50-74-307. Requirements for traction licenses. An applicant for a traction engineer's license must be 18 years of age or older, must have at least 6 months' full-time experience in the operation of steam traction engines, is required to successfully pass a written examination prescribed by the department, ~~have passed his 16th birthday,~~ and must be found ~~to~~ be competent to operate a traction engine by the department."

Section 18. Section 50-74-309, MCA, is amended to read:

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

- (1) ~~first class~~ ----- \$30
- (2) ~~second class~~ ----- \$20
- (3) ~~third class~~ ----- \$12
- (4) ~~low pressure~~ ----- \$ 0
- (5) ~~traction~~ ----- \$12
- (6) ~~renewal of license~~ ----- \$ 4
- (7) ~~replacement of lost certificate~~ ----- \$ 2 by

administrative rule, commensurate with program area costs approved by the legislature. All fees must be deposited in the state special revenue fund for the use of the department. The account balance may not exceed one-half of 1 year's approved appropriation without either a reduction in fees or an increase in appropriation approved by the legislature."

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

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

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

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

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

Section 20. Section 50-74-314, MCA, is amended to read:

"50-74-314. Complaints and revocation of license. Whenever a complaint ~~is made~~ against an engineer ~~holding~~ who holds a license is made alleging that ~~he,~~ through negligence, want of skill, or inattention to duty, the engineer ~~permitted his a~~

boiler to burn or otherwise become in bad condition or alleging that ~~he~~ the engineer has been found intoxicated or under the influence of drugs while on duty, it is the duty of the department to make a thorough investigation of the charge and upon satisfactory proof of ~~such~~ the charge to revoke the license of the engineer pursuant to the contested case provisions of the Montana Administrative Procedure Act."

Section 21. Section 50-74-317, MCA, is amended to read:

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

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

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

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

Section 22. Section 50-76-102, MCA, is amended to read:

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

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

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

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

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

Section 23. Section 50-76-103, MCA, is amended to read:

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

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

(2) Licensing is as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The department of commerce shall reexamine each

licensed engineer or operator every 5 years during the anniversary month of ~~his~~ the issuance of the license if the licensee has not worked at the trade for 5 years."

Section 24. Section 50-76-104, MCA, is amended to read:
"50-76-104. **Application and fee for license.** Application for licenses ~~shall~~ must be made to the department of commerce ~~in the same manner and the~~ and submitted with the appropriate fee that is set commensurate with the cost of administering this program, to be deposited in the state special revenue fund for use by the department. The same fee ~~shall~~ must be charged as required by law for obtaining a license to operate steam engines, boilers, and steam-driven machinery under chapter 74 of this title."

Section 25. Section 50-76-106, MCA, is amended to read:
"50-76-106. **Revocation of license.** The department of commerce may revoke any license issued under this chapter for any of the reasons for which the department of commerce may revoke a license to operate steam engines, boilers, or steam-driven machinery under chapter 74 of this title."

Section 26. Section 50-76-110, MCA, is amended to read:
"50-76-110. **Crane inspector.** The department of commerce shall employ at least one crane inspector. ~~He~~ The crane inspector shall hold a first-class hoisting engineer's license under this chapter for a minimum of 1 year and must have a minimum of 3 years' experience operating cranes."

NEW SECTION. **Section 27. Effective date.** [This act] is effective July 1, 1995."

-END-

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 17, 1995 10:12 am

Mr. Chairman: I move to amend HB 68 (third reading copy -- blue).

ADOPT

REJECT


Signed: 
Senator Keating

That such amendments read:

1. AMEND SENATE COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS
COMMITTEE REPORT DATED MARCH 15, 1995, AS FOLLOWS:

Amendment No. 4, on page 3, line 5 of committee report
In section 39-71-201(1)(b), following: "~~boilers and~~"
Strike: "issuance of licenses to operating engineers"
Insert: "inspection of boilers"

-END-


Amd. Coord.

HB 68

SENATE

1 HOUSE BILL NO. 68

2 INTRODUCED BY SCHWINDEN

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CERTAIN INDUSTRIAL SAFETY LAWS;
6 TRANSFERRING THE LICENSING OF CONSTRUCTION BLASTERS, BOILER AND STEAM ENGINE
7 OPERATORS, AND CRANE AND HOIST OPERATORS TO THE DEPARTMENT OF COMMERCE FROM THE
8 DEPARTMENT OF LABOR AND INDUSTRY; AUTHORIZING THE DEPARTMENT OF COMMERCE TO
9 ESTABLISH APPROPRIATE TRAINING COURSES; CLARIFYING BOILER ENGINEER EXPERIENCE
10 REQUIREMENTS; ESTABLISHING A NEW CLASS OF LICENSE FOR SEASONAL AGRICULTURAL
11 PURPOSES; TRANSFERRING LICENSURE FUNCTIONS OF THE FIRE PREVENTION AND INVESTIGATION
12 PROGRAM FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF COMMERCE;
13 TRANSFERRING BOILER SAFETY AND INSPECTIONS FROM THE DEPARTMENT OF LABOR AND INDUSTRY
14 TO THE DEPARTMENT OF COMMERCE; REQUIRING SAFETY COMPLIANCE LANGUAGE TO BE EXPRESSLY
15 STATED IN THE CONTRACT BETWEEN A CONTRACTOR AND A GOVERNMENTAL ENTITY; AUTHORIZING
16 THE DEPARTMENT TO ESTABLISH BOILER ENGINEER LICENSE FEE SCHEDULES, INSPECTION FEE
17 SCHEDULES, AND APPROPRIATE TRAINING COURSES BY ADMINISTRATIVE RULE; IMPOSING A FEE FOR
18 ALL BOILER INSPECTIONS; CLARIFYING BOILER ENGINEER EXPERIENCE REQUIREMENTS; ELIMINATING
19 HEARING OR COMPLAINT REQUIREMENTS PRIOR TO THE DEPARTMENT ORDERING WORKPLACE
20 SAFETY IMPROVEMENTS; MODIFYING HOISTING ENGINEER LICENSE STANDARDS TO INCLUDE EITHER
21 CRANE BOOM LENGTH OR TONNAGE RATING; AND AMENDING SECTIONS 37-72-101, 39-71-201,
22 50-5-115, 50-39-101, 50-39-102, 50-39-103, 50-39-104, 50-39-106, 50-39-107, 50-71-103, 50-71-323,
23 50-74-101, 50-74-101, 50-74-219, 50-74-304, AND 50-74-303, 50-74-304, 50-74-305, 50-74-307,
24 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
25 50-76-110, 50-74-309, AND 50-76-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

26
27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

28 (Refer to Third Reading Bill)

29 Strike everything after the enacting clause and insert:
30

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

2 **"37-72-101. Construction blasting restrictions -- license required -- definitions -- exemptions. (1)**

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

5 (2) For the purposes of this chapter:

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

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

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

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

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

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

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

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

22

23 **Section 2.** Section 39-71-201, MCA, is amended to read:

24 **"39-71-201. Administration fund. (1)** A workers' compensation administration fund is established
25 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
26 various occupational safety acts the department and the boiler inspections the department of commerce
27 must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907, and the
28 uninsured employers' fund, are to be paid upon lawful appropriation. The following money collected by the
29 department must be deposited in the state treasury to the credit of the workers' compensation
30 administrative fund and must be used for the administrative expenses of the department and, for the

1 biennium ending June 30, 1997, for the administrative expenses of the department of commerce for the
 2 purposes of 50-74-101:

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

4 (b) all fees paid for ~~inspection of boilers and issuance of licenses to operating engineers~~
 5 INSPECTION OF BOILERS as required by law;

6 (c) all fees paid from an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No.
 7 3, the state fund. The assessments must be levied against the preceding calendar year's gross annual
 8 payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on the
 9 policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding
 10 calendar year. However, an assessment of the plan No. 1 employer or plan No. 2 insurer may not be less
 11 than \$200. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure
 12 or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or
 13 plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the direct costs
 14 identified to the three plans and an equitable portion of the indirect costs based on the ratio of the
 15 preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost allocation
 16 procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an equitable
 17 portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including unexpended funds
 18 from the preceding fiscal year, must be used to reduce the costs before levying the assessments.

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

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

26

27 **Section 3.** Section 50-5-115, MCA, is amended to read:

28 **"50-5-115. Receiverships.** (1) If receivership has not already been instituted under medicaid or
 29 medicare, upon notice to the facility, the department may file a complaint in district court for receivership
 30 under any of the following conditions in addition to applicable conditions listed in 27-20-102:

1 (a) a facility is operating without a license and residents are in danger of serious physical or mental
2 harm;

3 (b) a facility intending to close has not made arrangements within 30 days before closure for the
4 orderly transfer of residents;

5 (c) a facility is abandoned by an owner; or

6 (d) a life threatening situation exists for the residents of the facility.

7 (2) If the department believes or has received notice from the department of justice that there is
8 an emergency that presents or might present an immediate and serious threat to the health or safety of
9 patients or residents of a facility, a receiver may be appointed by the court upon an ex parte application
10 by the department. If a receiver is appointed upon an ex parte application, notice must be given by the
11 department to the facility within 24 hours of issuance of the receivership order and a hearing must be
12 offered the facility by the court within 10 days of issuance of the order to determine whether the order will
13 be continued.

14 (3) The department shall maintain a list of persons qualified to act as receivers.

15 (4) The selection, appointment, and removal of receivers must be consistent with Title 27, chapter
16 20, parts 2 and 3.

17 (5) Whenever possible, receivers must be paid from the income of the facility; ~~however~~ However,
18 receivers may be paid from the patient protection account provided for in 50-5-232. The court shall direct
19 the amount of payments to be made to the receiver, the payments to be made by the receiver, and the
20 order of payments made to the receiver or to other entities. Payments owed to a facility that are made to
21 the receiver must be used to discharge any obligation of the entity making the payments owed to the
22 facility.

23 (6) The powers and duties of the receiver include:

24 (a) the duty to protect the health, welfare, and safety of the residents;

25 (b) the power to hire, discipline, and fire staff;

26 (c) the power to collect debts due to the facility;

27 (d) the power to settle labor disputes;

28 (e) the power to petition the court to set aside unreasonable contracts or leases entered into by
29 the facility management;

30 (f) the power to make capital investments in the facility with court approval; and

1 (g) all other powers granted receivers by 27-20-302."

2

3 **Section 4.** Section 50-39-101, MCA, is amended to read:

4 "**50-39-101. License and endorsements required.** (1) A person or entity shall obtain a license from
5 the department of ~~justice~~ commerce before engaging in the business of servicing fire extinguishers or before
6 engaging in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression
7 systems, or fire extinguishing systems. Each individual, except an apprentice, employed by the licensee to
8 perform services under the license ~~must~~ shall obtain from the department an endorsement to sell, service,
9 or install:

10 (a) fire alarm systems;

11 (b) special agent fire suppression systems; or

12 (c) fire extinguishing systems.

13 (2) The license and endorsement or endorsements must be prominently displayed at the business
14 premises, and copies must be carried by the person conducting each installation or servicing and must be
15 shown to anyone requesting to see them.

16 (3) It is a misdemeanor to knowingly or purposely service a fire extinguisher or sell, service, or
17 install a fire alarm system, special agent fire suppression system, or fire extinguishing system without the
18 required license and endorsement."

19

20 **Section 5.** Section 50-39-102, MCA, is amended to read:

21 "**50-39-102. Application for license and endorsements.** (1) An application for a license and any
22 endorsements must be made on a form prescribed by the department of ~~justice~~ commerce.

23 (2) The department shall annually issue a license and endorsement to an applicant who:

24 (a) submits satisfactory proof that the applicant is properly equipped and staffed to provide the
25 sales or services to be licensed and endorsed; and

26 (b) submits satisfactory proof that the applicant is insured to engage in the business covered by
27 the license and endorsement or endorsements.

28 (3) The department shall:

29 (a) issue an endorsement to an applicant who scores a passing grade on an examination devised
30 or approved by the department; and

1 (b) annually renew the endorsement upon payment of the endorsement fee and submission of
2 satisfactory proof that the endorsee has completed continuing education, training, or testing required by
3 the department."
4

5 **Section 6.** Section 50-39-103, MCA, is amended to read:

6 "**50-39-103. Inspections, examinations, and hearings authorized.** ~~The~~ When requested by the
7 department of ~~justice commerce may,~~ the department of justice shall conduct inspections, ~~of the applicant's~~
8 business facilities and shall report to the department of commerce the results of its inspection. ~~The~~
9 department of commerce may consider the inspection report and conduct examinations, or hearings to
10 determine an applicant's qualifications."
11

12 **Section 7.** Section 50-39-104, MCA, is amended to read:

13 "**50-39-104. Violations and penalties.** The department of ~~justice commerce~~ may deny, revoke,
14 suspend, or refuse to renew a license or endorsement for falsification of an application or for a violation
15 of this part or a rule promulgated by the department under 50-39-107."
16

17 **Section 8.** Section 50-39-106, MCA, is amended to read:

18 "**50-39-106. Deposit of fees.** The fees collected under 50-39-105 must be deposited in an account
19 in the state special revenue fund to the credit of the department of ~~justice commerce~~ and appropriated to
20 the ~~department~~ department of commerce and the department of justice to administer this part."
21

22 **Section 9.** Section 50-39-107, MCA, is amended to read:

23 "**50-39-107. Rulemaking authority.** The department of ~~justice commerce~~ may adopt rules to
24 implement this part."
25

26 **Section 10.** Section 50-71-103, MCA, is amended to read:

27 "**50-71-103. ~~Public contractors~~ Contractors subject to chapter -- contract provision required.** ~~Every~~
28 (1) A contractor performing services for the state or any of its political ~~subdivision thereof shall be~~
29 subdivisions is required to comply with the safety rules, codes, and provisions of this chapter as a part of
30 ~~his~~ the contract.

1 (2) The requirement imposed by subsection (1) must be expressly stated in a contract between a
 2 contractor and a governmental entity."

3
 4 **Section 11.** Section 50-71-323, MCA, is amended to read:

5 "**50-71-323. Order directing additions, repairs, and improvements, or changes.** (1) Whenever the
 6 department, after ~~a hearing had upon its own motion or upon complaint~~ an inspection and a closing
 7 conference with an employer and an employee representative, finds that an employment or place of
 8 employment is not safe or that the practices, ~~or methods, or operations,~~ or processes ~~employed or used~~
 9 ~~in connection therewith~~ by the employer are unsafe or do not afford adequate protection to the life and
 10 safety of the employees in ~~such employments and~~ the employment or place of employment, the department
 11 shall ~~make and enter and serve such~~ issue an order relative thereto as may be necessary to render such
 12 outlining the unsafe or inadequate practices, methods, operations, or processes currently used and directing
 13 additions, repairs, improvements, or changes in the employment or place of employment safe and that are
 14 necessary to protect the life and safety of employees in such the employment and places or place of
 15 employment.

16 (2) The department may in the order direct that ~~such~~ additions, repairs, improvements, or changes
 17 be made and ~~such that~~ safety devices and safeguards be furnished, provided, and used ~~as that~~ are
 18 ~~reasonably required~~ necessary to render such ensure a safe employment or places place of employment ~~safe~~
 19 ~~in the manner and~~ within the time specified in the order."

20
 21 **Section 12.** Section 50-74-101, MCA, is amended to read:

22 "**50-74-101. Department Definition -- department to formulate rules.** (1) As used in this chapter,
 23 the term "department" means the department of commerce.

24 (2) The department shall formulate adopt definitions and rules for the safe construction, installation,
 25 operation, inspection, and repair of equipment covered by this chapter. The definitions and rules ~~se~~
 26 ~~formulated shall~~ must follow generally accepted nationwide engineering standards as published by the
 27 American society of mechanical engineers."

28
 29 **Section 13.** Section 50-74-219, MCA, is amended to read:

30 "**50-74-219. Fee for special inspection.** Whenever, ~~upon request of the owner or operator of any~~

1 boiler, it is necessary for the a department inspector to make a special trip for the inspection of the inspects
 2 a boiler, the a mileage and per diem allowed fee by law shall must be charged and collected by the
 3 department prior to issuance of an inspection certificate in accordance with the following schedule:

4 (1) operating certificate, \$20;

5 (2) internal inspection, \$40;

6 (3) external inspection:

7 (a) hot water heating and supply, \$15;

8 (b) steam heating, \$20; and

9 (c) power boiler, \$30; and

10 (4) special inspection, \$50 per hour plus expenses."

11
 12 **Section 14.** 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 15.** 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 18 years of age or older, must have
 11 at least 3 months' full-time experience in the operation of a boiler in this classification, under an engineer
 12 who holds a valid low-pressure or higher license, is required to successfully pass a written examination
 13 prescribed by the department, ~~have passed his 18th birthday,~~ and must be found ~~to be~~ competent to
 14 operate a boiler in this classification by the department.

15 (2) An applicant for an agricultural-class engineer's license must be 18 years of age or older, is
 16 required to successfully pass a written examination prescribed by the department, and must be found
 17 competent to operate a boiler in this classification.

18 ~~(2)(3)~~ (3) An applicant for a third-class engineer's license must be 18 years of age or older, must have
 19 at least 6 months' full-time experience in the operation of a boiler in this classification under an engineer
 20 holding a valid third-class or higher license, is required to successfully pass a written examination prescribed
 21 by the department, ~~have passed his 18th birthday,~~ and must be found ~~to be~~ competent to operate a boiler
 22 in this classification by the department.

23 ~~(3)(4)~~ (4) An applicant for a second-class engineer's license must be 18 years of age or older and:

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

29 (b) shall hold a valid third-class engineer's license, ~~and~~ must have at least 1 year's full-time
 30 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer

1 holding a valid second-class or first-class license, is required to successfully pass a written examination
 2 prescribed by the department, ~~have passed his 18th birthday,~~ and must be found ~~to be~~ competent to
 3 operate a boiler and steam-driven machinery in this classification by the department.

4 ~~(4)~~(5) An applicant for a first-class engineer's license must be 18 years of age or older and:

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

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

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

20
 21 **Section 16.** Section 50-74-305, MCA, is amended to read:

22 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
 23 to the minimum requirements set out in 50-74-304 are as follows:

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

29 (2) Operating experience in a classification accumulated in the United States military services or
 30 the merchant marine service satisfactory to the department may be accepted in lieu of the operating

1 experience required for licensing of engineers in each of the license classifications.

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

8
9 **Section 17.** Section 50-74-307, MCA, is amended to read:

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

15
16 **Section 18.** Section 50-74-309, MCA, is amended to read:

17 "**50-74-309. License fees.** ~~Applicants~~ An applicant for an engineer's license shall pay ~~fees~~ a fee
18 according to the class of license for which application is made, as specified ~~in the following schedule:~~

- 19 ~~(1) first class — \$30~~
- 20 ~~(2) second class — \$20~~
- 21 ~~(3) third class — \$12~~
- 22 ~~(4) low pressure — \$ 8~~
- 23 ~~(5) traction — \$12~~
- 24 ~~(6) renewal of license — \$ 4~~
- 25 ~~(7) replacement of lost certificate — \$ 2~~ by administrative rule, commensurate with program area
- 26 costs approved by the legislature. All fees must be deposited in the state special revenue fund for the use
- 27 of the department. The account balance may not exceed one-half of 1 year's approved appropriation
- 28 without either a reduction in fees or an increase in appropriation approved by the legislature."

29
30 **Section 19.** Section 50-74-312, MCA, is amended to read:

1 without either a reduction in fees or an increase in appropriation approved by the legislature."

2
3 **Section 19.** Section 50-74-312, MCA, is amended to read:

4 **"50-74-312. Review of license rejection.** (1) ~~If any person who has applied~~ An applicant for a
5 license under the provisions of this chapter ~~and whose application has been rejected feels aggrieved, he~~
6 may, ~~at any time after the lapse of 10 days and~~ within 45 days after the date of his the rejection, in writing
7 set forth ~~the causes of his grievance~~ in writing any arguments opposing the rejection and request a
8 ~~department review by the department.~~ The request must be addressed to the department and ~~shall~~
9 must be signed by the ~~rejected~~ applicant.

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

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

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

26
27 **Section 20.** Section 50-74-314, MCA, is amended to read:

28 **"50-74-314. Complaints and revocation of license.** Whenever a complaint ~~is made~~ against an
29 engineer ~~holding~~ who holds a license is made alleging that he, through negligence, want of skill, or
30 inattention to duty, the engineer permitted his a boiler to burn or otherwise become in bad condition or

1 ~~alleging~~ that ~~he~~ the engineer has been found intoxicated or under the influence of drugs while on duty, it
 2 is the duty of the department to make a thorough investigation of the charge and upon satisfactory proof
 3 of ~~such~~ the charge to revoke the license of the engineer pursuant to the contested case provisions of the
 4 Montana Administrative Procedure Act."

5

6 **Section 21.** Section 50-74-317, MCA, is amended to read:

7 **"50-74-317. When unlicensed person may operate.** (1) In case of accident, sickness, or any
 8 unforeseen ~~prevention of the~~ event that prevents a licensed engineer, employed by ~~any~~ an owner, renter,
 9 or user of an engine or boiler, from performing required duties, the owner, renter, or user may for 15 days
 10 employ any person ~~of the age of 18 years or over whom he may consider~~ of age or older whom the owner,
 11 renter, or user considers competent to run the engine or boiler.

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

14 (3) ~~The~~ A person ~~so~~ employing ~~the~~ an unlicensed engineer shall immediately notify the department.

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

17

18 **Section 22.** Section 50-76-102, MCA, is amended to read:

19 **"50-76-102. Hoisting engine license required.** (1) (a) It is unlawful for ~~any~~ a person to operate any
 20 hoisting engine driven by any power when used in lowering or hoisting personnel or material in industrial
 21 operations or on construction projects without first obtaining a license ~~therefor~~ from the department of of
 22 commerce.

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

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

29 (3) Second-class hoisting engineers ~~shall~~ must be licensed to operate hoisting engines driven by
 30 any power and not in excess of 100 brake horsepower used in the lowering or hoisting of personnel or

1 material in industrial operations or on construction projects.

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

3

4 **Section 23.** Section 50-76-103, MCA, is amended to read:

5 **"50-76-103. Crane and hoist license required.** (1) (a) It is unlawful for a person to operate any
6 hoisting equipment, when used in hoisting or lowering personnel or material, that has a manufacturer's
7 rating of ~~above~~ more than 6 tons ~~and or~~ a boom length of more than 25 feet without first obtaining a
8 license from the department of commerce. This equipment includes overhead trolley cranes used in
9 construction only and excludes equipment with excavation attachments or log loading equipment when in
10 use.

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

13 (2) Licensing is as follows:

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

16 (b)(i) An applicant for a first-class hoisting engineer's license must be 18 years of age or older and
17 ~~shall have~~:

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

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

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

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

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

27 (d)(i) ~~Applicants~~ An applicant for a second-class hoisting engineer's license must be 18 years of age
28 or older and shall:

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

1 competency by examination; and

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

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

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

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

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

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

14

15 **Section 24.** Section 50-76-104, MCA, is amended to read:

16 "**50-76-104. Application and fee for license.** Application for licenses ~~shall must~~ must be made to the
17 department of commerce ~~in the same manner and the~~ and submitted with the appropriate fee that is set
18 commensurate with the cost of administering this program, to be deposited in the state special revenue
19 fund for use by the department. The same fee shall must be charged as required by law for obtaining a
20 license to operate steam engines, boilers, and steam-driven machinery under chapter 74 of this title."

21

22 **Section 25.** Section 50-76-106, MCA, is amended to read:

23 "**50-76-106. Revocation of license.** The department of commerce may revoke any license issued
24 under this chapter for any of the reasons for which the department of commerce may revoke a license to
25 operate steam engines, boilers, or steam-driven machinery under chapter 74 of this title."

26

27 **Section 26.** Section 50-76-110, MCA, is amended to read:

28 "**50-76-110. Crane inspector.** The department of commerce shall employ at least one crane
29 inspector. ~~He~~ The crane inspector shall hold a first-class hoisting engineer's license under this chapter for
30 a minimum of 1 year and must have a minimum of 3 years' experience operating cranes."

1 NEW SECTION. Section 27. Effective date. [This act] is effective July 1, 1995."

2 -END-



FREE CONFERENCE COMMITTEE

on House Bill 68
Report No. , April 7, 1995

Mr. Speaker and Mr. President:

We, your Free Conference Committee on House Bill 68 met and considered House Bill 68 and recommend that House Bill 68 (reference copy -- salmon) be amended as follows:

- 1. Page 2, line 30 through page 3, line 1.
Following: "and"
Strike: remainder of line 30 through "1997," on page 3, line 1.
We recommend that the amendment considered above to House Bill 68 be acceded to by senate.

And this Free Conference Committee report be adopted.

For the House:
Herron

Jack Herron

Chair
Slifer

Paul Slifer

Schwinden

Paul Schwinden

For the Senate:
Benedict

Sam Benedict

Chair
Baer

John Baer

Wilson

Bill Wilson

ADOPT

REJECT

HB 68
FCCR #1
801125CC.Hbk

1 HOUSE BILL NO. 68

2 INTRODUCED BY SCHWINDEN

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ~~CERTAIN~~ INDUSTRIAL SAFETY LAWS;

6 TRANSFERRING THE LICENSING OF CONSTRUCTION BLASTERS, BOILER AND STEAM ENGINE

7 OPERATORS, AND CRANE AND HOIST OPERATORS TO THE DEPARTMENT OF COMMERCE FROM THE

8 DEPARTMENT OF LABOR AND INDUSTRY; AUTHORIZING THE DEPARTMENT OF COMMERCE TO

9 ESTABLISH APPROPRIATE TRAINING COURSES; CLARIFYING BOILER ENGINEER EXPERIENCE

10 REQUIREMENTS; ESTABLISHING A NEW CLASS OF LICENSE FOR SEASONAL AGRICULTURAL

11 PURPOSES; TRANSFERRING LICENSURE FUNCTIONS OF THE FIRE PREVENTION AND INVESTIGATION

12 PROGRAM FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF COMMERCE;

13 TRANSFERRING BOILER SAFETY AND INSPECTIONS FROM THE DEPARTMENT OF LABOR AND INDUSTRY

14 TO THE DEPARTMENT OF COMMERCE; REQUIRING SAFETY COMPLIANCE LANGUAGE TO BE EXPRESSLY

15 STATED IN THE CONTRACT BETWEEN A CONTRACTOR AND A GOVERNMENTAL ENTITY; AUTHORIZING

16 THE DEPARTMENT TO ESTABLISH BOILER ENGINEER LICENSE FEE SCHEDULES, INSPECTION FEE

17 SCHEDULES, AND APPROPRIATE TRAINING COURSES BY ADMINISTRATIVE RULE; IMPOSING A FEE FOR

18 ALL BOILER INSPECTIONS; CLARIFYING BOILER ENGINEER EXPERIENCE REQUIREMENTS; ELIMINATING

19 HEARING OR COMPLAINT REQUIREMENTS PRIOR TO THE DEPARTMENT ORDERING WORKPLACE

20 SAFETY IMPROVEMENTS; MODIFYING HOISTING ENGINEER LICENSE STANDARDS TO INCLUDE EITHER

21 CRANE BOOM LENGTH OR TONNAGE RATING; AND AMENDING SECTIONS 37-72-101, 39-71-201,

22 50-5-115, 50-39-101, 50-39-102, 50-39-103, 50-39-104, 50-39-106, 50-39-107, 50-71-103, 50-71-323,

23 50-74-101, 50-74-101, 50-74-219, ~~50-74-304~~, AND 50-74-303, 50-74-304, 50-74-305, 50-74-307,

24 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

25 50-76-110, ~~50-74-309~~, AND ~~50-76-103~~, MCA; AND PROVIDING AN EFFECTIVE DATE."

26
27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

28 (Refer to Third Reading Bill)

29 Strike everything after the enacting clause and insert:

30

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

2 **"37-72-101. Construction blasting restrictions -- license required -- definitions -- exemptions.** (1)

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

5 (2) For the purposes of this chapter:

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

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

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

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

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

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

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

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

22

23 **Section 2.** Section 39-71-201, MCA, is amended to read:

24 **"39-71-201. Administration fund.** (1) A workers' compensation administration fund is established
25 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
26 various occupational safety acts the department and the boiler inspections the department of commerce
27 must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907, and the
28 uninsured employers' fund, are to be paid upon lawful appropriation. The following money collected by the
29 department must be deposited in the state treasury to the credit of the workers' compensation
30 administrative fund and must be used for the administrative expenses of the department and, for the

1 ~~biennium ending June 30, 1997, for the administrative expenses of the department of commerce for the~~
 2 ~~purposes of 50-74-101:~~

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

4 (b) all fees paid for ~~inspection of boilers and issuance of licenses to operating engineers~~
 5 INSPECTION OF BOILERS as required by law;

6 (c) all fees paid from an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No.
 7 3, the state fund. The assessments must be levied against the preceding calendar year's gross annual
 8 payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on the
 9 policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding
 10 calendar year. However, an assessment of the plan No. 1 employer or plan No. 2 insurer may not be less
 11 than \$200. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure
 12 or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or
 13 plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the direct costs
 14 identified to the three plans and an equitable portion of the indirect costs based on the ratio of the
 15 preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost allocation
 16 procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an equitable
 17 portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including unexpended funds
 18 from the preceding fiscal year, must be used to reduce the costs before levying the assessments.

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

24 (3) Disbursements from the administration money must be made after being approved by the
 25 department upon claim therefor."
 26

27 **Section 3.** Section 50-5-115, MCA, is amended to read:

28 **"50-5-115. Receiverships.** (1) If receivership has not already been instituted under medicaid or
 29 medicare, upon notice to the facility, the department may file a complaint in district court for receivership
 30 under any of the following conditions in addition to applicable conditions listed in 27-20-102:

1 (a) a facility is operating without a license and residents are in danger of serious physical or mental
2 harm;

3 (b) a facility intending to close has not made arrangements within 30 days before closure for the
4 orderly transfer of residents;

5 (c) a facility is abandoned by an owner; or

6 (d) a life threatening situation exists for the residents of the facility.

7 (2) If the department believes or has received notice from the department of justice that there is
8 an emergency that presents or might present an immediate and serious threat to the health or safety of
9 patients or residents of a facility, a receiver may be appointed by the court upon an ex parte application
10 by the department. If a receiver is appointed upon an ex parte application, notice must be given by the
11 department to the facility within 24 hours of issuance of the receivership order and a hearing must be
12 offered the facility by the court within 10 days of issuance of the order to determine whether the order will
13 be continued.

14 (3) The department shall maintain a list of persons qualified to act as receivers.

15 (4) The selection, appointment, and removal of receivers must be consistent with Title 27, chapter
16 20, parts 2 and 3.

17 (5) Whenever possible, receivers must be paid from the income of the facility; ~~however~~ However,
18 receivers may be paid from the patient protection account provided for in 50-5-232. The court shall direct
19 the amount of payments to be made to the receiver, the payments to be made by the receiver, and the
20 order of payments made to the receiver or to other entities. Payments owed to a facility that are made to
21 the receiver must be used to discharge any obligation of the entity making the payments owed to the
22 facility.

23 (6) The powers and duties of the receiver include:

24 (a) the duty to protect the health, welfare, and safety of the residents;

25 (b) the power to hire, discipline, and fire staff;

26 (c) the power to collect debts due to the facility;

27 (d) the power to settle labor disputes;

28 (e) the power to petition the court to set aside unreasonable contracts or leases entered into by
29 the facility management;

30 (f) the power to make capital investments in the facility with court approval; and

1 (g) all other powers granted receivers by 27-20-302."

2

3 **Section 4.** Section 50-39-101, MCA, is amended to read:

4 **"50-39-101. License and endorsements required.** (1) A person or entity shall obtain a license from
5 the department of ~~justice~~ commerce before engaging in the business of servicing fire extinguishers or before
6 engaging in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression
7 systems, or fire extinguishing systems. Each individual, except an apprentice, employed by the licensee to
8 perform services under the license ~~must~~ shall obtain from the department an endorsement to sell, service,
9 or install:

10 (a) fire alarm systems;

11 (b) special agent fire suppression systems; or

12 (c) fire extinguishing systems.

13 (2) The license and endorsement or endorsements must be prominently displayed at the business
14 premises, and copies must be carried by the person conducting each installation or servicing and must be
15 shown to anyone requesting to see them.

16 (3) It is a misdemeanor to knowingly or purposely service a fire extinguisher or sell, service, or
17 install a fire alarm system, special agent fire suppression system, or fire extinguishing system without the
18 required license and endorsement."

19

20 **Section 5.** Section 50-39-102, MCA, is amended to read:

21 **"50-39-102. Application for license and endorsements.** (1) An application for a license and any
22 endorsements must be made on a form prescribed by the department of ~~justice~~ commerce.

23 (2) The department shall annually issue a license and endorsement to an applicant who:

24 (a) submits satisfactory proof that the applicant is properly equipped and staffed to provide the
25 sales or services to be licensed and endorsed; and

26 (b) submits satisfactory proof that the applicant is insured to engage in the business covered by
27 the license and endorsement or endorsements.

28 (3) The department shall:

29 (a) issue an endorsement to an applicant who scores a passing grade on an examination devised
30 or approved by the department; and

1 (b) annually renew the endorsement upon payment of the endorsement fee and submission of
 2 satisfactory proof that the endorsee has completed continuing education, training, or testing required by
 3 the department."

4
 5 **Section 6.** Section 50-39-103, MCA, is amended to read:

6 "50-39-103. **Inspections, examinations, and hearings authorized.** ~~The~~ When requested by the
 7 department of ~~justice~~ commerce may, the department of justice shall conduct inspections, ~~of the applicant's~~
 8 business facilities and shall report to the department of commerce the results of its inspection. The
 9 department of commerce may consider the inspection report and conduct examinations, or hearings to
 10 determine an applicant's qualifications."

11
 12 **Section 7.** Section 50-39-104, MCA, is amended to read:

13 "50-39-104. **Violations and penalties.** The department of ~~justice~~ commerce may deny, revoke,
 14 suspend, or refuse to renew a license or endorsement for falsification of an application or for a violation
 15 of this part or a rule promulgated by the department under 50-39-107."

16
 17 **Section 8.** Section 50-39-106, MCA, is amended to read:

18 "50-39-106. **Deposit of fees.** The fees collected under 50-39-105 must be deposited in an account
 19 in the state special revenue fund to the credit of the department of ~~justice~~ commerce and appropriated to
 20 the ~~department~~ department of commerce and the department of justice to administer this part."

21
 22 **Section 9.** Section 50-39-107, MCA, is amended to read:

23 "50-39-107. **Rulemaking authority.** The department of ~~justice~~ commerce may adopt rules to
 24 implement this part."

25
 26 **Section 10.** Section 50-71-103, MCA, is amended to read:

27 "50-71-103. ~~Public contractors~~ Contractors subject to chapter -- contract provision required. Every
 28 (1) A contractor performing services for the state or any of its political subdivision thereof shall be
 29 subdivisions is required to comply with the safety rules, codes, and provisions of this chapter as a part of
 30 his the contract.

1 (2) The requirement imposed by subsection (1) must be expressly stated in a contract between a
 2 contractor and a governmental entity."

3
 4 **Section 11.** Section 50-71-323, MCA, is amended to read:

5 **"50-71-323. Order directing additions, repairs, and improvements, or changes.** (1) Whenever the
 6 department, after ~~a hearing had upon its own motion or upon complaint~~ an inspection and a closing
 7 conference with an employer and an employee representative, finds that an employment or place of
 8 employment is not safe or that the practices, ~~or methods, or operations, or processes employed or used~~
 9 ~~in connection therewith~~ by the employer are unsafe or do not afford adequate protection to the life and
 10 safety of ~~the employees in such employments and the employment or~~ the employment or place of employment, the department
 11 shall ~~make and enter and serve such~~ issue an order relative thereto as may be necessary to render such
 12 outlining the unsafe or inadequate practices, methods, operations, or processes currently used and directing
 13 additions, repairs, improvements, or changes in the employment or place of employment safe and that are
 14 necessary to protect the life and safety of employees in such the employment and places or place of
 15 employment.

16 (2) The department may in the order direct that ~~such~~ additions, repairs, improvements, or changes
 17 be made and ~~such that~~ safety devices and safeguards be furnished, provided, and used as ~~that~~ are
 18 ~~reasonably required necessary to render such~~ ensure a safe employment or ~~places~~ place of employment safe
 19 ~~in the manner and within the time specified in the order."~~

20
 21 **Section 12.** Section 50-74-101, MCA, is amended to read:

22 **"50-74-101. Department Definition -- department to formulate rules.** (1) As used in this chapter,
 23 the term "department" means the department of commerce.

24 (2) The department shall ~~formulate~~ adopt definitions and rules for the safe construction, installation,
 25 operation, inspection, and repair of equipment covered by this chapter. The definitions and rules ~~se~~
 26 ~~formulated shall~~ must follow generally accepted nationwide engineering standards as published by the
 27 American society of mechanical engineers."

28
 29 **Section 13.** Section 50-74-219, MCA, is amended to read:

30 **"50-74-219. Fee for special inspection.** Whenever, ~~upon request of the owner or operator of any~~

1 boiler, it is necessary for the a department inspector to make a special trip for the inspection of the inspects
 2 a boiler, the a mileage and per diem allowed fee by law shall must be charged and collected by the
 3 department prior to issuance of an inspection certificate in accordance with the following schedule:

4 (1) operating certificate, \$20;

5 (2) internal inspection, \$40;

6 (3) external inspection:

7 (a) hot water heating and supply, \$15;

8 (b) steam heating, \$20; and

9 (c) power boiler, \$30; and

10 (4) special inspection, \$50 per hour plus expenses."

11
 12 **Section 14.** 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 15.** 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 18 years of age or older, must have
 11 at least 3 months' full-time experience in the operation of a boiler in this classification, under an engineer
 12 who holds a valid low-pressure or higher license, is required to successfully pass a written examination
 13 prescribed by the department, ~~have passed his 18th birthday,~~ and must be found ~~to be~~ competent to
 14 operate a boiler in this classification by the department.

15 (2) An applicant for an agricultural-class engineer's license must be 18 years of age or older, is
 16 required to successfully pass a written examination prescribed by the department, and must be found
 17 competent to operate a boiler in this classification.

18 ~~(2)(3)~~ (3) An applicant for a third-class engineer's license must be 18 years of age or older, must have
 19 at least 6 months' full-time experience in the operation of a boiler in this classification under an engineer
 20 holding a valid third-class or higher license, is required to successfully pass a written examination prescribed
 21 by the department, ~~have passed his 18th birthday,~~ and must be found ~~to be~~ competent to operate a boiler
 22 in this classification by the department.

23 ~~(3)(4)~~ (4) An applicant for a second-class engineer's license must be 18 years of age or older and:

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

29 (b) shall hold a valid third-class engineer's license, ~~and~~ must have at least 1 year's full-time
 30 experience in the operation of a boiler and steam-driven machinery in this classification under an engineer

1 holding a valid second-class or first-class license, is required to successfully pass a written examination
 2 prescribed by the department, ~~have passed his 18th birthday~~, and must be found ~~to be~~ competent to
 3 operate a boiler and steam-driven machinery in this classification by the department.

4 ~~(4)~~(5) An applicant for a first-class engineer's license must be 18 years of age or older and:

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

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

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

20
 21 **Section 16.** Section 50-74-305, MCA, is amended to read:

22 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
 23 to the minimum requirements set out in 50-74-304 are as follows:

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

29 (2) Operating experience in a classification accumulated in the United States military services or
 30 the merchant marine service satisfactory to the department may be accepted in lieu of the operating

1 experience required for licensing of engineers in each of the license classifications.

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

8

9 **Section 17.** Section 50-74-307, MCA, is amended to read:

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

15

16 **Section 18.** Section 50-74-309, MCA, is amended to read:

17 **"50-74-309. License fees.** ~~Applicants~~ An applicant for an engineer's license shall pay ~~fees~~ a fee
18 according to the class of license for which application is made, as specified ~~in the following schedule:~~

19

(1) ~~first class~~ — ~~\$30~~

20

(2) ~~second class~~ — ~~\$20~~

21

(3) ~~third class~~ — ~~\$12~~

22

(4) ~~low pressure~~ — ~~\$ 8~~

23

(5) ~~traction~~ — ~~\$12~~

24

(6) ~~renewal of license~~ — ~~\$ 4~~

25

(7) ~~replacement of lost certificate~~ — ~~\$ 2~~ by administrative rule, commensurate with program area

26 costs approved by the legislature. All fees must be deposited in the state special revenue fund for the use

27 of the department. The account balance may not exceed one-half of 1 year's approved appropriation

28

without either a reduction in fees or an increase in appropriation approved by the legislature."

29

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

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

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

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

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

23
24 **Section 20.** Section 50-74-314, MCA, is amended to read:

25 "**50-74-314. Complaints and revocation of license.** Whenever a complaint ~~is made~~ against an
26 engineer ~~holding~~ who holds a license is made alleging that ~~he,~~ through negligence, want of skill, or
27 inattention to duty, the engineer permitted ~~his~~ a boiler to burn or otherwise become in bad condition or
28 alleging that ~~he~~ the engineer has been found intoxicated or under the influence of drugs while on duty, it
29 is the duty of the department to make a thorough investigation of the charge and upon satisfactory proof
30 of ~~such~~ the charge to revoke the license of the engineer pursuant to the contested case provisions of the

1 Montana Administrative Procedure Act."

2

3 **Section 21.** Section 50-74-317, MCA, is amended to read:

4 **"50-74-317. When unlicensed person may operate.** (1) In case of accident, sickness, or any
5 unforeseen ~~prevention of the event that prevents a~~ licensed engineer, employed by ~~any~~ an owner, renter,
6 or user of an engine or boiler, from performing required duties, the owner, renter, or user may for 15 days
7 employ any person ~~of the age of 18 years or over whom he may consider~~ of age or older whom the owner,
8 renter, or user considers competent to run the engine or boiler.

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

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

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

14

15 **Section 22.** Section 50-76-102, MCA, is amended to read:

16 **"50-76-102. Hoisting engine license required.** (1) (a) It is unlawful for ~~any~~ a person to operate any
17 hoisting engine driven by any power when used in lowering or hoisting personnel or material in industrial
18 operations or on construction projects without first obtaining a license ~~therefor~~ from the department of of
19 commerce.

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

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

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

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

30

1 **Section 23.** Section 50-76-103, MCA, is amended to read:

2 **"50-76-103. Crane and hoist license required.** (1) (a) It is unlawful for a person to operate any
3 hoisting equipment, when used in hoisting or lowering personnel or material, that has a manufacturer's
4 rating of ~~above~~ more than 6 tons ~~and or~~ a boom length of more than 25 feet without first obtaining a
5 license from the department of commerce. This equipment includes overhead trolley cranes used in
6 construction only and excludes equipment with excavation attachments or log loading equipment when in
7 use.

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

10 (2) Licensing is as follows:

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

13 (b)(i) An applicant for a first-class hoisting engineer's license must be 18 years of age or older and
14 ~~shall have:~~

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

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

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

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

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

24 (d)(i) ~~Applicants~~ An applicant for a second-class hoisting engineer's license must be 18 years of age
25 or older and shall:

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

29 (B) is required to successfully pass a written examination prescribed by the department of
30 commerce; ~~and~~

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

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

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

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

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

11

12 **Section 24.** Section 50-76-104, MCA, is amended to read:

13 "**50-76-104. Application and fee for license.** Application for licenses ~~shall~~ must be made to the
14 department of commerce ~~in the same manner and the~~ and submitted with the appropriate fee that is set
15 commensurate with the cost of administering this program, to be deposited in the state special revenue
16 fund for use by the department. The same fee shall must be charged as required by law for obtaining a
17 license to operate steam engines, boilers, and steam-driven machinery under chapter 74 of this title."

18

19 **Section 25.** Section 50-76-106, MCA, is amended to read:

20 "**50-76-106. Revocation of license.** The department of commerce may revoke any license issued
21 under this chapter for any of the reasons for which the department of commerce may revoke a license to
22 operate steam engines, boilers, or steam-driven machinery under chapter 74 of this title."

23

24 **Section 26.** Section 50-76-110, MCA, is amended to read:

25 "**50-76-110. Crane inspector.** The department of commerce shall employ at least one crane
26 inspector. ~~He~~ The crane inspector shall hold a first-class hoisting engineer's license under this chapter for
27 a minimum of 1 year and must have a minimum of 3 years' experience operating cranes."

28

29 NEW SECTION. **Section 27. Effective date.** [This act] is effective July 1, 1995."

30

-END-