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House BILL NO. 351

INTRODUCED BY

Bookout Henry Conce

A BILL FOR AN ACT ENTITLED: "AN ACT SUBSTITUTING THE TERM "ENVIRONMENTAL HEALTH SPECIALIST" FOR "SANITARIAN" AND "ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING" FOR "SANITARIAN-IN-TRAINING"; AND AMENDING SECTIONS 2-15-1861, 7-22-2419, 37-40-101, 37-40-102, 37-40-203, 37-40-301, 37-40-302, 37-40-304, 37-40-305, 37-40-312, 50-50-106, 50-50-201, 50-50-202, 50-50-301, 50-50-302, 50-50-304, 50-50-305, 50-51-201, 50-51-301, 50-51-302, 50-51-303, 50-52-103, 50-52-201, 50-52-301, 50-52-302, 50-52-303, 50-53-103, 50-53-218, 75-5-106, 75-11-213, 76-4-102, 76-4-104, 76-4-106, AND 81-22-305, MCA."

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

Section 1. Section 2-15-1861, MCA, is amended to read:

"2-15-1861. Board of ~~sanitarians~~ environmental health specialists. (1) There is a board of ~~sanitarians~~ environmental health specialists.

(2) The board shall consist of three members appointed by the governor with the consent of the senate. Each member must be a resident of this state, and two of the members must be registered ~~sanitarians~~ environmental health specialists. One member must be from the public and not a ~~sanitarian~~ an environmental health specialist who shall represent the interests of the public at large. Each ~~sanitarian~~ environmental health specialist member ~~shall~~ must have a minimum of 3 years of experience practicing as a ~~sanitarian~~ an environmental health specialist in the state of Montana.

(3) Members shall serve for 3-year terms. One term ~~shall~~ must expire on July 1 of each year.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 2. Section 7-22-2419, MCA, is amended to read:

"7-22-2419. Establishment and operation of joint mosquito control districts. (1) Joint mosquito control districts ~~(that is, districts which lie partly in one county and partly in another),~~ may be created or dissolved in the same manner as provided in this part for other districts, except that ~~in such cases all~~

1 petitions must be directed to the commissioners of each county affected and must be acted upon ~~by them~~
2 concurrently.

3 (2) In the case of ~~such~~ joint districts, the mosquito control board ~~shall~~ must be constituted in the
4 same manner and ~~shall have~~ has the same powers as are provided for other boards in this part, except that
5 appointments shall be made by joint action of the commissioners in all counties affected and each county
6 shall be represented among the appointed members of the board. The county health officer, county
7 ~~sanitarian~~ environmental health specialist, and county extension agent of each county ~~shall be~~ are ex officio
8 members of the board without vote."
9

10 **Section 3.** Section 37-40-101, MCA, is amended to read:

11 **"37-40-101. Definitions.** Unless the context requires otherwise, as used in this chapter, the
12 following definitions apply:

13 (1) "Board" means the board of ~~sanitarians~~ environmental health specialists provided for in
14 2-15-1861.

15 (2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

16 (3) "Environmental health specialist" means a person who, by reason of special knowledge of the
17 physical, biological, and chemical sciences and the principles and methods of public health acquired by
18 professional education and practical experience through inspection duties, educational duties, or
19 enforcement duties, is qualified to practice the profession of environmental health specialist.

20 (4) "Environmental health specialist-in-training" means a person who meets the minimum
21 educational qualifications required for an environmental health specialist's license and who works under the
22 supervision of a registered environmental health specialist. Environmental health specialists-in-training may,
23 with board approval, work in a public health agency for a period not to exceed 1 year and may be
24 considered exempt from the licensing and registration requirements of 37-40-301.

25 ~~(3)(5)~~ "Practice the profession of ~~sanitarian~~ environmental health specialist" means:

26 (a) giving advice on or enforcing compliance with state and local regulations applicable to local
27 government jurisdictions and programs concerning food service, food processing, public accommodations,
28 trailer courts, campgrounds, day-care centers, schools, swimming pools and spas, air pollution, solid and
29 hazardous waste collection and disposal, sewage treatment and disposal, vector control, underground
30 storage tanks, drinking water, land subdivision, and milk sanitation;

1 (b) cooperating with government agencies on matters of public and environmental health, including
2 epidemiological investigations and emergency response to investigations; and

3 (c) providing educational and training programs in environmental standards and public health.

4 ~~(4)~~(6) "Registered ~~sanitarian~~ environmental health specialist" means ~~a sanitarian~~ an environmental
5 health specialist licensed under this chapter.

6 ~~(5) "Sanitarian", within the meaning and intent of this chapter, shall mean a person who, by reason~~
7 ~~of his special knowledge of the physical, biological, and chemical sciences and the principles and methods~~
8 ~~of public health acquired by professional education and practical experience through inspectional,~~
9 ~~educational, and/or enforcement duties, is qualified to practice the profession of sanitarian.~~

10 ~~(6) "Sanitarian in training" means a person who meets the minimum educational qualifications~~
11 ~~required for a sanitarian's license and who works under the supervision of a licensed sanitarian.~~
12 ~~Sanitarians in training may, with board approval, work in a public health agency for a period not to exceed~~
13 ~~1 year and be considered exempt from the licensing and registration requirements of 37-40-301."~~

14
15 **Section 4.** Section 37-40-102, MCA, is amended to read:

16 "**37-40-102. Exemptions.** ~~Persons~~ A person is exempt from the requirements of this chapter ~~are~~
17 if the person is:

18 (1) ~~any person~~ teaching, lecturing, or engaging in research in environmental sanitation, but only
19 insofar as ~~such~~ the activities are performed as part of an academic position in a college or university;

20 (2) ~~any person who is~~ a registered professional engineer or engineer intern;

21 (3) ~~any~~ a public health officer employed pursuant to 50-2-116;

22 (4) ~~any person~~ employed by a federal governmental agency, but only at ~~such~~ times as the person
23 is carrying out the functions of ~~his~~ the person's employment;

24 (5) a state employee unless expressly required by statute, regulation, or position description to be
25 registered as ~~a sanitarian~~ an environmental health specialist; or

26 (6) ~~any person~~ not employed by a governmental entity or not under contract with a governmental
27 entity for the performance of an official regulatory function."

28
29 **Section 5.** Section 37-40-203, MCA, is amended to read:

30 "**37-40-203. Rulemaking power.** (1) The board may adopt rules, consistent with the purposes of

1 this chapter, as it considers necessary.

2 (2) The board's rulemaking and hearing functions must be in accordance with the Montana
3 Administrative Procedure Act. The board shall adopt rules:

4 (a) establishing standards of professional conduct in order to maintain a high standard of integrity,
5 dignity, and competency in the profession of ~~sanitarian~~ environmental health specialist, including
6 competency in specific fields of ~~sanitation~~ environmental health;

7 (b) governing the conduct of matters before the board;

8 (c) governing educational equivalency requirements, as provided in 37-40-302, for registration of
9 ~~sanitarians~~ environmental health specialists; and

10 (d) defining qualifications for ~~sanitarian-in-training~~ environmental health specialist-in-training status
11 for issuance of the initial annual permit."

12

13 **Section 6.** Section 37-40-301, MCA, is amended to read:

14 "**37-40-301. License required.** A person may not practice or offer to practice the profession of
15 ~~sanitarian~~ environmental health specialist ~~as defined in this chapter~~ or hold himself out in any manner ~~to~~
16 ~~be that the person is a licensed sanitarian~~ registered environmental health specialist unless the person is
17 licensed and registered under the provisions of this chapter."

18

19 **Section 7.** Section 37-40-302, MCA, is amended to read:

20 "**37-40-302. Application -- examination -- certificate.** (1) A person wishing to practice the
21 profession of ~~sanitarian~~ environmental health specialist may apply to the department for registration on a
22 form prescribed by the board.

23 (2) An applicant ~~must~~ shall possess a minimum of a bachelor's degree in environmental health or
24 its equivalent from an accredited university or college and ~~must~~ shall pass a written examination given at
25 a time and place set by the board. The board shall establish procedures for examination and determination
26 of passing scores by rule.

27 (3) If the applicant meets the board's standards and passes the examination prescribed by the
28 board, the department shall issue a certificate of registration upon payment of the required fee.

29 (4) Holders of current certificates are entitled to append to their name the initials "~~R.S.~~"
30 "R.E.H.S."

1 **Section 8.** Section 37-40-304, MCA, is amended to read:

2 **"37-40-304. Fees -- renewal.** (1) An applicant for a license shall pay a fee set by the board in an
3 amount commensurate with examination and administrative costs.

4 (2) A registered ~~sanitarian~~ environmental health specialist may renew the license by paying an
5 annual fee and meeting qualifications set by the board.

6 (3) Renewal fees are due on or before the renewal date set by department rule. If the renewal fee
7 is not paid, the license expires. Licenses which have lapsed for failure to pay renewal fees may be reissued
8 under rules adopted by the board."
9

10 **Section 9.** Section 37-40-305, MCA, is amended to read:

11 **"37-40-305. Deposit of fees.** The board shall adopt a schedule of nonrefundable fees to be
12 charged by the department and to be paid into the state special revenue fund for the use of the board. The
13 fees charged must be reasonably related to the cost incurred in regulating the practice of the profession
14 of ~~sanitarian~~ environmental health specialist."
15

16 **Section 10.** Section 37-40-312, MCA, is amended to read:

17 **"37-40-312. Penalty.** (1) A person who offers his services as a ~~sanitarian~~ an environmental health
18 specialist or uses, assumes, or advertises in any way any title or description tending to convey the
19 impression that ~~he~~ the person is a registered ~~sanitarian~~ environmental health specialist who does not hold
20 the license specified by this chapter is guilty of a misdemeanor and is punishable by a fine not to exceed
21 \$500 or imprisonment for not longer than 6 months, or both.

22 (2) The board may enforce the provisions of this chapter by injunction or any other appropriate
23 proceeding."
24

25 **Section 11.** Section 50-50-106, MCA, is amended to read:

26 **"50-50-106. Injunctions.** Notwithstanding any other provision of this chapter, the department,
27 local, county, or district health officer or ~~sanitarian~~ environmental health specialist may bring an action for
28 an injunction against the continuation of an alleged violation of this chapter."
29

30 **Section 12.** Section 50-50-201, MCA, is amended to read:

1 **"50-50-201. License required.** (1) Except as provided in 50-50-202, a person operating an
2 establishment shall procure an annual license from the department.

3 (2) A separate license is required for each establishment, but if more than one type of
4 establishment is operated on the same premises and under the same management, only one license is
5 required.

6 (3) Only one license is required for a person owning and operating one or more vending machines.

7 (4) Before a license may be issued by the department it must be validated by the local health
8 officer, or if there is no local health officer the ~~sanitarian~~ environmental health specialist, in the county
9 where the establishment is located."

10
11 **Section 13.** Section 50-50-202, MCA, is amended to read:

12 **"50-50-202. Establishments exempt from license requirement -- farmer's market records.** (1)
13 Establishments owned or operated by the state or a political subdivision of the state are exempt from
14 licensure but must comply with the requirements of this chapter and rules adopted by the department under
15 this chapter.

16 (2) A license is not required to operate an establishment if it is operated by a nonprofit
17 organization for a period of less than 14 days in 1 calendar year. An establishment exempt from licensure
18 under this subsection must:

19 (a) be operated in compliance with the remaining provisions of this chapter and rules adopted by
20 the department under this chapter; and

21 (b) prior to each operation, register with the local health officer or ~~sanitarian~~ environmental health
22 specialist on forms provided by the department.

23 (3) (a) A license is not required of a gardener, farm owner, or farm operator who sells raw and
24 unprocessed farm products at a farmer's market.

25 (b) A license is not required of a person selling baked goods or preserves at a farmer's market.

26 (4) (a) A farmer's market that is an organized market authorized by a municipal or county authority
27 shall keep registration records of all individuals and organizations that sell baked goods or preserves at the
28 market.

29 (b) The registration records must include but are not limited to the name of the seller, the seller's
30 address and telephone number, the products sold by the seller, and the date the products were sold.

1 (c) The registration records must be made available to the local health officer or the officer's
2 agent."

3

4 **Section 14.** Section 50-50-301, MCA, is amended to read:

5 **"50-50-301. Health officers and ~~sanitarians~~ environmental health specialists to make investigations**
6 **and inspections.** State and local health officers, ~~sanitarians-in-training~~ environmental health
7 specialists-in-training, and registered ~~sanitarians~~ environmental health specialists shall make investigations
8 and inspections of establishments and make reports to the department as required under rules adopted by
9 the department."

10

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

12 **"50-50-302. Health officers and ~~sanitarians~~ environmental health specialists to have free access.**
13 State and local health officers, ~~sanitarians-in-training~~ environmental health specialists-in-training, and
14 ~~sanitarians~~ environmental health specialists must be provided free access to establishments at all reasonable
15 hours for the purpose of conducting investigations and inspections as required under this chapter."

16

17 **Section 16.** Section 50-50-304, MCA, is amended to read:

18 **"50-50-304. Discovery of food capable of causing food-borne illness.** If a state or local health
19 officer, ~~sanitarian~~ environmental health specialist, or other authorized person finds food that is capable of
20 causing food-borne illness, ~~he~~ the person shall issue a report in writing recommending that the food be
21 withheld from sale to the public. A duplicate copy of the report, properly authenticated, is admissible in
22 evidence in any action or proceeding ~~where~~ in which the condition of the food at the time of the inspection
23 is material."

24

25 **Section 17.** Section 50-50-305, MCA, is amended to read:

26 **"50-50-305. Department to pay local board for inspections and enforcement.** (1) Before June 30
27 of each year, the department shall pay to a local board of health, as established under 50-2-104, 50-2-106,
28 or 50-2-107, an amount from the local board inspection fund account created in 50-2-108 that must be
29 used only for the purpose of inspecting establishments licensed under this chapter and enforcing the
30 provisions of this chapter; ~~provided, however, that~~ if:

1 (a) there is a functioning local board of health; and

2 (b) the local board of health, local health officers, ~~sanitarians-in-training~~ environmental health
3 specialists-in-training, and registered ~~sanitarians~~ environmental health specialists:

4 (i) assist in inspections and enforcement of the provisions of this chapter and the rules adopted
5 under it; and

6 (ii) meet minimum program performance standards as established under rules adopted by the
7 department.

8 (2) The funds received by the local board of health pursuant to subsection (1) must be deposited
9 with the appropriate local fiscal authority and must be used to supplement, but not supplant, other funds
10 received by the local board of health that in the absence of funding received under subsection (1) would
11 be made available for the same purpose.

12 (3) Funds in the local board inspection fund account not paid to the local board of health as
13 provided in subsection (1) may be used by the department, within any jurisdiction that does not qualify to
14 receive payments from the local board inspection fund account, to enforce the provisions of this chapter
15 and the rules adopted under ~~it~~ this chapter."

16

17 **Section 18.** Section 50-51-201, MCA, is amended to read:

18 "**50-51-201. License required.** (1) Each year, every person engaged in the business of conducting
19 or operating a hotel, motel, tourist home, boardinghouse, or roominghouse shall procure a license issued
20 by the department.

21 (2) A separate license is required for each establishment; ~~however~~ However, when more than one
22 of each type of establishment is operated on the same premises and under the same management, only one
23 license is required that must enumerate on the certificate the types of establishments licensed.

24 (3) Before a license may be issued by the department, it must be validated by the local health
25 officer or, if there is no local health officer, the ~~sanitarian~~ environmental health specialist, in the county
26 where the establishment is located."

27

28 **Section 19.** Section 50-51-301, MCA, is amended to read:

29 "**50-51-301. Health officers to make investigations and inspections.** State and local health officers,
30 ~~sanitarians-in-training~~ environmental health specialists-in-training, and registered ~~sanitarians~~ environmental

1 health specialists shall make investigations and inspections of establishments and make reports to the
2 department as required under rules adopted by the department."

3

4 **Section 20.** Section 50-51-302, MCA, is amended to read:

5 **"50-51-302. Health officers to have free access.** State and local health officers,
6 ~~sanitarians-in-training~~ environmental health specialists-in-training, and registered ~~sanitarians~~ environmental
7 health specialists must be provided free access to establishments at all reasonable hours for the purpose
8 of conducting investigations and inspections as required under this chapter."

9

10 **Section 21.** Section 50-51-303, MCA, is amended to read:

11 **"50-51-303. Department to pay local board for inspections and enforcement.** (1) Before June 30
12 of each year, the department shall pay to a local board of health, as established under 50-2-104, 50-2-106,
13 or 50-2-107, an amount from the local board inspection fund account created in 50-2-108 that must be
14 used only for the purpose of inspecting establishments licensed under this chapter and enforcing the
15 provisions of this chapter; ~~provided, however, that~~ if:

16 (a) there is a functioning local board of health; and

17 (b) the local board of health, local health officers, ~~sanitarians-in-training~~ environmental health
18 specialists-in-training, and registered ~~sanitarians~~ environmental health specialists:

19 (i) assist in inspections and enforcement of the provisions of this chapter and the rules adopted
20 under it; and

21 (ii) meet minimum program performance standards as established under rules adopted by the
22 department.

23 (2) The funds received by the local board of health pursuant to subsection (1) must be deposited
24 with the appropriate local fiscal authority and must be used to supplement, but not supplant, other funds
25 received by the local board of health that in the absence of funding received under subsection (1) would
26 be available for the same purpose.

27 (3) Funds in the local board inspection fund account not paid to the local board of health as
28 provided in subsection (1) may be used by the department, within any jurisdiction that does not qualify to
29 receive payments from the local board inspection fund account, to enforce the provisions of this chapter
30 and the rules adopted under it."

1 **Section 22.** Section 50-52-103, MCA, is amended to read:

2 **"50-52-103. Duty to obtain license and permit inspections.** A person operating an establishment
3 shall:

4 (1) possess a current license to do so from the department. However, a campground owned by
5 the state or a political subdivision need not obtain a license but must comply with applicable rules ~~applicable~~
6 ~~to it~~ adopted by the department.

7 (2) permit inspections by state or local health officers, ~~sanitarians~~ environmental health specialists,
8 or other authorized persons at all reasonable times."

9

10 **Section 23.** Section 50-52-201, MCA, is amended to read:

11 **"50-52-201. Application for license.** (1) Application for a license is made to the department on
12 forms containing information required by the department.

13 (2) The department may not issue a license unless it has been validated by the local health officer,
14 or if there is no local health officer the ~~sanitarian~~ environmental health specialist, in the county where the
15 establishment is located."

16

17 **Section 24.** Section 50-52-301, MCA, is amended to read:

18 **"50-52-301. Health officers and ~~sanitarians~~ environmental health specialists to make investigations**
19 **and inspections.** State and local health officers, ~~sanitarians-in-training~~ environmental health
20 specialists-in-training, and registered ~~sanitarians~~ environmental health specialists shall make investigations
21 and inspections of establishments and make reports to the department as required under rules adopted by
22 the department."

23

24 **Section 25.** Section 50-52-302, MCA, is amended to read:

25 **"50-52-302. Department to pay local board for inspection and enforcement.** (1) Before June 30
26 of each year, the department shall pay to a local board of health, as established under 50-2-104, 50-2-106,
27 or 50-2-107, an amount from the local board inspection fund account created in 50-2-108 that must be
28 used only for the purpose of inspecting establishments licensed under this chapter and enforcing the
29 provisions of this chapter; ~~provided, however, that if:~~

30 (a) there is a functioning local board of health; and

1 (b) the local board of health, local health officers, ~~sanitarians-in-training~~ environmental health
 2 specialists-in-training, and registered ~~sanitarians~~ environmental health specialists:

3 (i) assist in inspections and enforcement of the provisions of this chapter and the rules adopted
 4 under it; and

5 (ii) meet minimum program performance standards as established under rules adopted by the
 6 department.

7 (2) The funds received by the local board of health pursuant to subsection (1) must be deposited
 8 with the appropriate local fiscal authority and must be used to supplement, but not supplant, other funds
 9 received by the local board of health that in the absence of funding received under subsection (1) would
 10 be made available for the same purpose.

11 (3) Funds in the local board inspection fund account not paid to the local board of health as
 12 provided in subsection (1) may be used by the department, within any jurisdiction that does not qualify to
 13 receive payments from the local board inspection fund, to enforce the provisions of this chapter and the
 14 rules adopted under it."

15
 16 **Section 26.** Section 50-52-303, MCA, is amended to read:

17 "**50-52-303. Health officers and** ~~sanitarians~~ environmental health specialists **to have access to**
 18 **establishments.** State and local health officers, ~~sanitarians-in-training~~ environmental health
 19 specialists-in-training, and registered ~~sanitarians~~ environmental health specialists must be provided free
 20 access to establishments at all reasonable hours for the purpose of conducting investigations and
 21 inspections as required under this chapter."

22
 23 **Section 27.** Section 50-53-103, MCA, is amended to read:

24 "**50-53-103. Department rules.** (1) The department shall adopt rules relating to the operation of
 25 public swimming pools and public bathing places, including rules:

26 (a) setting standards to ensure sanitation and safety in public swimming pools and public bathing
 27 places to protect public health and safety;

28 (b) relating to the licensing of operators of public swimming pools and public bathing places;

29 (c) providing procedures for the enforcement of the laws and rules relating to public swimming
 30 pools and public bathing places;

1 (d) relating to cooperative agreements between the department and local boards of health; and

2 (e) setting performance standards for local boards of health, local health officers, and ~~sanitarians~~
3 environmental health specialists to meet as a condition to receipt of funds provided by the department
4 pursuant to 50-53-218.

5 (2) ~~Any~~ A rule relating to the design, construction, reconstruction, alteration, conversion, repair,
6 inspection, or use of buildings or installation of equipment in buildings is effective only when it has been
7 adopted by the department of commerce as part of the state building code and filed with the secretary of
8 state pursuant to 50-60-204."

9
10 **Section 28.** Section 50-53-218, MCA, is amended to read:

11 **"50-53-218. Department to pay board for inspections or enforcement, or both.** (1) By June 30
12 of each year, the department shall pay to a local board of health established under 50-2-104, 50-2-106,
13 or 50-2-107 an amount from the local board inspection fund account, created by 50-2-108, for the purpose
14 of inspecting public swimming pools and public bathing places licensed under 50-53-101 through
15 50-53-109 and this part or for taking appropriate enforcement action with respect to the public swimming
16 pools and public bathing places, or for both inspection and enforcement. The payment required by this
17 section must be made to a board only if the board and any local health officer and ~~sanitarian~~ environmental
18 health specialist for the jurisdiction of the board meet the program performance standards established by
19 department rules.

20 (2) Money received by the board pursuant to subsection (1) may be used only for the purpose of
21 inspections and enforcement under 50-53-101 through 50-53-109 and this part and must be used to
22 supplement and not supplant other money received by the board for the same purpose.

23 (3) The department may use money in the local board inspection fund account appropriated to the
24 department for the enforcement of 50-53-101 through 50-53-109, this part, and the rules of the
25 department and for inspections to determine compliance with those sections and rules in any local
26 jurisdiction not receiving payment under subsection (1)."

27
28 **Section 29.** Section 75-5-106, MCA, is amended to read:

29 **"75-5-106. Interagency cooperation -- enforcement authorization.** (1) The council, board, and
30 department may require the use of records of all state agencies and may seek the assistance of the

1 agencies. When the department's review of a permit application submitted under another chapter or title
2 is required or requested, the department shall coordinate the review under this chapter with the review
3 conducted by the agency or unit under the other chapter, following the time schedule for that review.
4 State, county, and municipal officers and employees, including ~~sanitarians~~ environmental health specialists
5 and other employees of local departments of health, shall cooperate with the council, board, and
6 department in furthering the purposes of this chapter, so far as is practicable and consistent with their other
7 duties.

8 (2) The department may authorize a local water quality district established according to the
9 provisions of Title 7, chapter 13, part 45, to enforce the provisions of this chapter and rules adopted under
10 this chapter on a case-by-case basis. If a local water quality district requests the authorization, the local
11 water quality district shall present appropriate documentation to the department that a person is violating
12 permit requirements established by the department or may be causing pollution, as defined in 75-5-103,
13 of state waters or placing or causing to be placed wastes in a location where they are likely to cause
14 pollution of state waters. The board may adopt rules regarding the granting of enforcement authority to
15 local water quality districts."

16

17 **Section 30.** Section 75-11-213, MCA, is amended to read:

18 **"75-11-213. Inspection of installations and closures -- fee.** (1) After being issued a permit, an
19 owner or operator may obtain an inspection by the department in lieu of obtaining the services of a licensed
20 installer. The owner or operator shall provide timely notice to the department of the date and location of
21 the underground storage tank system installation or closure and shall establish with the department the time
22 when an inspection may be conducted.

23 (2) An owner or operator may conduct an installation or closure under this section only if an
24 inspector is present.

25 (3) An inspection fee must be paid by the owner or operator to the department to cover the costs
26 associated with an inspection. The inspection is not considered complete until the owner or operator pays
27 the fee.

28 (4) Department officials or local government officers, such as local health officers, ~~sanitarians~~
29 environmental health specialists, local fire chiefs, or other persons designated or hired by the department,
30 shall conduct inspections on behalf of the department.

1 (5) The department shall pay the person conducting an inspection on the department's behalf, as
2 provided in subsection (4), from the underground storage tank system license and permit account
3 established in 75-11-227 up to 80% of any fee collected by the department for the inspection. When an
4 inspection is conducted by an officer of a county or city, the payment must be made by the department
5 to the appropriate county or city treasurer. A county or city shall use payments received under this section
6 only for costs incurred in conducting inspections under this section.

7 (6) A copy of an installation inspection report must be kept on file by the owner or operator for as
8 long as the department may require by rule. A copy of a closure inspection report must be kept by the
9 owner or operator for 3 years after the date of closure.

10 (7) The department may enter and inspect the premises or any appurtenant property of an owner
11 or operator at any time to ensure compliance with laws or rules pertaining to underground storage tank
12 systems."

13
14 **Section 31.** Section 76-4-102, MCA, is amended to read:

15 **"76-4-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the
16 following words or phrases have the following meanings:

17 (1) "Board" means the board of environmental review.

18 (2) "Department" means the department of environmental quality.

19 (3) "Extension of public sewage disposal system" means a sewer line that connects two or more
20 sewer service lines to a sewer main.

21 (4) "Extension of public water supply system" means a water line that connects two or more water
22 service lines to a water main.

23 (5) "Facilities" means public or private facilities for the supply of water or disposal of sewage or
24 solid waste and any pipes, conduits, or other stationary method by which water, sewage, or solid wastes
25 might be transported or distributed.

26 (6) "Public water supply system" or "public sewage disposal system" means, respectively, a water
27 supply or sewage disposal system that serves 10 or more families or 25 or more persons for at least 60
28 days out of the calendar year.

29 (7) "Registered environmental health specialist" means a person licensed to practice as an
30 environmental health specialist under Title 37, chapter 40.

1 ~~(7)~~(8) "Registered professional engineer" means a person licensed to practice as a professional
2 engineer under Title 37, chapter 67.

3 ~~(8) "Registered sanitarian" means a person licensed to practice as a sanitarian under Title 37,~~
4 ~~chapter 40.~~

5 (9) "Reviewing authority" means the department or a local department or board of health certified
6 to conduct a review under 76-4-104.

7 (10) "Sanitary restriction" means a prohibition against the erection of any dwelling, shelter, or
8 building requiring facilities for the supply of water or the disposition of sewage or solid waste or the
9 construction of water supply or sewage or solid waste disposal facilities until the department has approved
10 plans for those facilities.

11 (11) "Sewer service line" means a sewer line that connects a single building or living unit to a public
12 sewer system or extension of a system.

13 (12) "Solid wastes" means all putrescible and nonputrescible solid wastes (except body wastes),
14 including garbage, rubbish, street cleanings, dead animals, yard clippings, and solid market and solid
15 industrial wastes.

16 (13) "Subdivision" means a division of land or land so divided that creates one or more parcels
17 containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the
18 parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and any
19 condominium or area, regardless of size, that provides permanent multiple space for recreational camping
20 vehicles or mobile homes.

21 (14) "Water service line" means a water line that connects a single building or living unit to a public
22 water system or extension of a system."

23

24 **Section 32.** Section 76-4-104, MCA, is amended to read:

25 **"76-4-104. Rules for administration and enforcement.** (1) The department shall, subject to the
26 provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for
27 administration and enforcement of this part.

28 (2) The rules and standards must provide the basis for approving subdivision plats for various types
29 of water, sewage facilities, and solid waste disposal, both public and private, and must be related to:

30 (a) size of lots;

- 1 **(b)** contour of land;
2 **(c)** porosity of soil;
3 **(d)** ground water level;
4 **(e)** distance from lakes, streams, and wells;
5 **(f)** type and construction of private water and sewage facilities; and
6 **(g)** other factors affecting public health and the quality of water for uses relating to agriculture,
7 industry, recreation, and wildlife.

8 (3) The rules must provide for the review of the following divisions of land by a local department
9 or board of health, as described in Title 50, chapter 2, part 1, if the local department or board of health
10 employs a registered ~~sanitarian~~ environmental health specialist or a registered professional engineer and if
11 the department certifies under subsection (4) that the local department or board is competent to review
12 these divisions of land:

13 (a) divisions of land containing five or fewer parcels, whenever each parcel will contain individual
14 onsite water and sewage disposal facilities; and

15 (b) divisions of land proposed to connect to existing municipal water and wastewater systems
16 previously approved by the department if no extension of the systems is required.

17 (4) The department shall also adopt standards and procedures for certification and maintaining
18 certification to ensure that a local department or board of health is competent to review the divisions of
19 land described in subsection (3).

20 (5) The department shall review those divisions of land described in subsection (3) if:

21 (a) a proposed division of land lies within more than one jurisdictional area and the respective
22 governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed
23 subdivision; or

24 (b) the local department or board of health elects not to be certified.

25 (6) The rules must further provide for:

26 (a) providing the reviewing authority with a copy of the plat and other documentation showing the
27 layout or plan of development, including:

28 (i) total development area;

29 (ii) total number of proposed dwelling units;

30 (b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and

1 dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;

2 (c) evidence concerning the potability of the proposed water supply for the subdivision;

3 (d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and
4 dependability;

5 (e) standards and technical procedures applicable to storm drainage plans and related designs, in
6 order to ensure proper drainage ways;

7 (f) standards and technical procedures applicable to sanitary sewer plans and designs, including
8 soil percolation testing and required percolation rates and site design standards for on-lot sewage disposal
9 systems when applicable;

10 (g) standards and technical procedures applicable to water systems;

11 (h) standards and technical procedures applicable to solid waste disposal;

12 (i) evidence to establish that, if a public sewage disposal system is proposed, provision has been
13 made for the system and, if other methods of sewage disposal are proposed, evidence that the systems
14 will comply with state and local laws and regulations that are in effect at the time of submission of the
15 preliminary or final plan or plat.

16 (7) If the reviewing authority is a local department or board of health, it shall, upon approval of a
17 division of land under this part, notify the department of the approval and submit to the department a copy
18 of the approval statement.

19 (8) Review and certification or denial of certification that a division of land is not subject to sanitary
20 restrictions under this part may occur only under those rules in effect at the time plans and specifications
21 are submitted to the department, except that in cases in which current rules would preclude the use for
22 which the lot was originally intended, the applicable requirements in effect at the time the lot was recorded
23 must be applied. In the absence of specific requirements, minimum standards necessary to protect public
24 health and water quality apply.

25 (9) The reviewing authority may not deny or condition a certification that a division of land is not
26 subject to sanitary restrictions under this part unless it provides a written statement to the applicant
27 detailing the circumstances of the certification denial or condition imposition. The statement must include:

28 (a) the reason for the denial or condition imposition;

29 (b) the evidence that justifies the denial or condition imposition; and

30 (c) information regarding the appeal process for the denial or condition imposition."

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House BILL NO. 351

INTRODUCED BY

Bookout
Alang

C. 102

A BILL FOR AN ACT ENTITLED: "AN ACT SUBSTITUTING THE TERM "ENVIRONMENTAL HEALTH
SPECIALIST" FOR "SANITARIAN" AND "ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING" FOR
"SANITARIAN-IN-TRAINING"; AND AMENDING SECTIONS 2-15-1861, 7-22-2419, 37-40-101, 37-40-102,
37-40-203, 37-40-301, 37-40-302, 37-40-304, 37-40-305, 37-40-312, 50-50-106, 50-50-201,
50-50-202, 50-50-301, 50-50-302, 50-50-304, 50-50-305, 50-51-201, 50-51-301, 50-51-302,
50-51-303, 50-52-103, 50-52-201, 50-52-301, 50-52-302, 50-52-303, 50-53-103, 50-53-218, 75-5-106,
75-11-213, 76-4-102, 76-4-104, 76-4-106, AND 81-22-305, MCA."

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO INTRODUCED COPY
(WHITE) FOR COMPLETE TEXT.**

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House BILL NO. 351

INTRODUCED BY *Bookout* *Alang* *Geno*

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