

1 HOUSE BILL NO. 151

2 INTRODUCED BY E. BUTTREY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING SERVICE OF PROCESS TO OCCUR BY
5 REGULAR MAIL FOR PROFESSIONAL AND OCCUPATIONAL LICENSEES AND LICENSE APPLICANTS;
6 AUTHORIZING ELECTRONIC MAIL IF CONSENTED TO; REVISING TIMELINES; AMENDING SECTIONS
7 37-1-309, 37-1-311, 37-1-403, AND 37-1-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11 **Section 1.** Section 37-1-309, MCA, is amended to read:

12 **"37-1-309. Notice -- request for hearing.** (1) (a) If a reasonable cause determination is made
13 pursuant to 37-1-307 that a violation of this part has occurred and the provisions of 37-1-321 do not apply, a
14 notice must be prepared by department legal staff and served on the alleged violator. The notice, and any
15 summary suspension order issued with the notice pursuant to 2-4-631, may be served by ~~certified regular~~ mail
16 to the current address on file with the board or by ~~other means authorized by the Montana Rules of Civil~~
17 ~~Procedure~~ electronic mail if the licensee or license applicant consents to service by electronic mail. Service is
18 complete on the date of mailing.

19 (b) The notice may not allege a violation of a particular statute, rule, or standard unless the board or
20 the board's screening panel, if one has been established, has made a written determination that there are
21 reasonable grounds to believe that the particular statute, rule, or standard has been violated.

22 (2) A licensee or license applicant shall give the board the licensee's or applicant's current address
23 and any change of address within 30 days of the change.

24 (3) The notice must state that the licensee or license applicant may request a hearing to contest the
25 charge or charges. A request for a hearing must be in writing and received in the offices of the department
26 within ~~20~~ 30 days after the ~~licensee's receipt~~ mailing date of the notice. Failure to request a hearing constitutes
27 a default on the charge or charges, and the board may enter a decision on the basis of the facts available to it."
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1 **Section 2.** Section 37-1-311, MCA, is amended to read:

2 **"37-1-311. Findings of fact -- order -- report.** (1) If the board decides by a preponderance of the
3 evidence, following a hearing or on default, that a violation of this part occurred, the department shall prepare
4 and serve the board's findings of fact and an order as provided in ~~Title 2, chapter 4~~ 37-1-309. If the licensee or
5 license applicant is found not to have violated this part, the department shall prepare and serve the board's
6 findings of fact and an order of dismissal of the charges.

7 (2) (a) The department shall within a reasonable amount of time report to the public the issuance of a
8 summary suspension, a notice under 37-1-309, an accepted stipulation, a hearing examiner's proposed
9 decision, and a final order.

10 (b) In addition to any other means of notice, the department shall post the required information on a
11 publicly available website.

12 (c) This subsection (2) may not be construed to require a meeting to be open or records to be
13 disseminated when the demands of individual privacy clearly exceed the merits of public disclosure."
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15 **Section 3.** Section 37-1-403, MCA, is amended to read:

16 **"37-1-403. Notice -- request for hearing.** (1) If the department determines that reasonable cause
17 exists supporting the allegation made in a complaint and the provisions of 37-1-321 do not apply, the
18 department legal staff shall prepare a notice and serve the alleged violator. The notice, and any summary
19 suspension order issued with the notice pursuant to 2-4-631, may be served by ~~certified-regular~~ mail to the
20 current address on file with the department or by ~~other means authorized by the Montana Rules of Civil~~
21 ~~Procedure~~ electronic mail if the licensee or license applicant consents to service by electronic mail. Service is
22 complete on the date of mailing.

23 (2) A licensee or license applicant shall give the department the licensee's or applicant's current
24 address and any change of address within 30 days of the change.

25 (3) The notice must state that the licensee or license applicant may request a hearing to contest the
26 charge or charges. A request for a hearing must be in writing and must be received in the offices of the
27 department within ~~20~~ 30 days after the ~~licensee's receipt~~ mailing date of the notice. Failure to request a hearing
28 constitutes a default on the charge or charges, and the department may enter a decision on the basis of the

1 facts available to it."

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3 **Section 4.** Section 37-1-405, MCA, is amended to read:

4 **"37-1-405. Findings of fact -- order -- report.** (1) If the department finds by a preponderance of the
5 evidence, following a hearing or on default, that a violation of this part has occurred, the department shall
6 prepare and serve findings of fact, conclusions of law, and an order as provided in ~~Title 2, chapter 4~~ 37-1-403. If
7 the licensee or license applicant is found not to have violated this part, the department shall prepare and serve
8 an order of dismissal of the charges.

9 (2) (a) The department shall within a reasonable amount of time report to the public the issuance of a
10 summary suspension, a notice under 37-1-403, an accepted stipulation, a hearing examiner's proposed
11 decision, and a final order.

12 (b) In addition to any other means of notice, the department shall post the required information on a
13 publicly available website.

14 (c) This subsection (2) may not be construed to require a meeting to be open or records to be
15 disseminated when the demands of individual privacy clearly exceed the merits of public disclosure."

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17 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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