

SENATE BILL NO. 77

INTRODUCED BY M. MCNALLY

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE DEPARTMENT
6 OF LABOR AND INDUSTRY TO ADDRESS LEGISLATIVE AUDIT FINDINGS AND RECOMMENDATIONS;
7 ELIMINATING THE LICENSURE PROGRAM FOR PROFESSIONAL BOXING, ELIMINATING THE INDUSTRIAL
8 ACCIDENT REHABILITATION ACCOUNT, AND REVISING REGULATIONS RELATED TO REAL ESTATE
9 LICENSURE, UNEMPLOYMENT INSURANCE, AND COAL MINE MAPS AND SURVEYS; REVISING COURSE
10 REQUIREMENTS FOR NEW REAL ESTATE SALESPERSONS; REMOVING AUTHORITY TO WITHHOLD
11 ADDITIONAL FEDERAL INCOME TAX FROM UNEMPLOYMENT INSURANCE COMPENSATION; REQUIRING
12 A TRANSFER OF FUNDS FROM THE INDUSTRIAL ACCIDENT REHABILITATION ACCOUNT TO THE
13 UNINSURED EMPLOYERS' FUND; ALLOWING THE DEPARTMENT TO REQUEST COPIES OF COAL MINE
14 MAPS OR SURVEYS INSTEAD OF REQUIRING COPIES; AMENDING SECTIONS 2-6-1017, 37-51-302,
15 39-51-2207, 50-73-205, 50-73-206, AND 50-73-209, MCA; REPEALING SECTIONS 23-3-301, 23-3-402,
16 23-3-404, 23-3-405, 23-3-501, 23-3-503, 23-3-603, 23-3-611, 39-71-1003, AND 39-71-1004, MCA; AND
17 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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21 **Section 1.** Section 2-6-1017, MCA, is amended to read:

22 **"2-6-1017. Prohibition on dissemination or use of distribution lists -- exceptions -- penalties.** (1)
23 Except as provided in subsections (3) through (10), to protect the privacy of those who deal with state and local
24 government:

25 (a) a public agency may not distribute or sell a distribution list without first securing the permission of
26 those on the list; and

27 (b) a list of persons prepared by a public agency may not be used as a distribution list without first
28 securing the permission of those on the list except by that agency.

29 (2) As used in this section, "distribution list" means any list of personal contact information collected by
30 a public agency and used to facilitate unsolicited contact with individuals on the distribution list.

- 1 (3) This section does not prevent an individual from compiling a distribution list by examination of records
2 that are otherwise open to public inspection.
- 3 (4) This section does not apply to the lists of:
- 4 (a) registered electors and the new voter lists provided for in 13-2-115;
- 5 (b) the names of employees governed by Title 39, chapter 31;
- 6 (c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;
- 7 (d) persons holding professional or occupational licenses governed by ~~Title 23, chapter 3~~; Title 37,
8 chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through
9 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or
- 10 (e) persons certified as claims examiners under 39-71-320.
- 11 (5) This section does not prevent an agency from providing a list to persons providing prelicensing or
12 continuing education courses subject to state law or subject to Title 33, chapter 17.
- 13 (6) This section does not apply to the right of access by Montana law enforcement agencies.
- 14 (7) This section does not apply to the secretary of state's electronic filing system developed pursuant
15 to 2-15-404 and containing corporate and uniform commercial code information.
- 16 (8) This section does not apply to the use by the public employees' retirement board of a list of
17 board-administered retirement system participants to send materials on behalf of a retiree organization formed
18 for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the
19 Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the list is not
20 released to the organization.
- 21 (9) This section does not apply to lists of individuals who sign attendance sheets or sign-in sheets at a
22 hearing or meeting of a public agency.
- 23 (10) This section does not apply to a public school providing lists of graduating students to
24 representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.
- 25 (11) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."

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27 **Section 2.** Section 37-51-302, MCA, is amended to read:

28 **"37-51-302. Broker's or salesperson's license -- qualifications of applicant -- supervising broker**
29 **endorsement.** (1) Licenses may be granted only to individuals considered by the board to be of good repute and
30 competent to transact the business of a broker or a salesperson in a manner that safeguards the interests of the

1 public.

2 (2) An applicant for a broker's license:

3 (a) must be at least 18 years of age;

4 (b) must have graduated from an accredited high school or completed an equivalent education as
5 determined by the board;

6 (c) must have been actively engaged as a licensed real estate salesperson for a period of 2 years or
7 have had experience or special education equivalent to that which a licensed real estate salesperson ordinarily
8 would receive during this 2-year period as determined by the board, except that if the board finds that an applicant
9 could not obtain employment as a licensed real estate salesperson because of conditions existing in the area
10 where the applicant resides, the board may waive this experience requirement;

11 (d) shall file an application for a license with the department; and

12 (e) shall furnish written evidence that the applicant has completed 60 classroom or equivalent hours, in
13 addition to those required to secure a salesperson's license, in a course of study approved by the board and
14 taught by instructors approved by the board and has satisfactorily passed an examination dealing with the
15 material taught in each course. The course of study must include the subjects of real estate principles, real estate
16 law, real estate finance, and related topics.

17 (3) The board shall require information it considers necessary from an applicant to determine honesty,
18 trustworthiness, and competency.

19 (4) (a) An applicant for a salesperson's license:

20 (i) must be at least 18 years of age;

21 (ii) must have received credit for completion of 2 years of full curriculum study at an accredited high
22 school or completed an equivalent education as determined by the board;

23 (iii) shall file an application for a license with the department; and

24 (iv) shall furnish written evidence that the applicant has completed between 60 and 80 classroom or
25 equivalent hours, as set by the board. The hours must be in a course of study approved by the board and taught
26 by instructors approved by the board, ~~and has~~ The applicant must satisfactorily ~~passed~~ pass an examination
27 dealing with the material taught in each course. The course of study must include the subjects of real estate
28 principles, real estate law and ethics, real estate finance, and related topics.

29 (b) The application must be accompanied by the recommendation of a licensed broker with a supervising
30 broker endorsement by whom the applicant will be employed or placed under contract, certifying that the applicant

1 is of good repute and that the broker will actively supervise and train the applicant during the period the requested
2 license remains in effect.

3 (5) If the board determines that an applicant possesses the qualifications required by this chapter, the
4 department shall issue a license to the applicant.

5 (6) (a) An applicant for a supervising broker endorsement must meet the education and experience
6 requirements established by the board by rule except that continuing education requirements for a supervising
7 broker endorsement may not be in addition to the continuing education requirements for a licensed broker with
8 respect to the total number of hours or credits required.

9 (b) The board may not assess a licensing fee for obtaining or renewing a supervising broker
10 endorsement.

11 (c) The board may adopt rules allowing a salesperson to temporarily associate with a broker with a
12 supervising broker endorsement other than the supervising broker listed on the salesperson's license."
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14 **Section 3.** Section 39-51-2207, MCA, is amended to read:

15 **"39-51-2207. Voluntary and other withholding of taxes from benefits -- procedures.** (1) The
16 department shall advise an individual at the time the individual files a new claim for unemployment compensation
17 that:

18 (a) unemployment compensation is subject to federal income tax;

19 (b) requirements exist pertaining to estimated tax payments;

20 (c) the individual may elect to have federal income tax deducted and withheld from the individual's
21 unemployment compensation at the rate or amount specified in the Internal Revenue Code; and

22 (d) the individual may change a previously elected withholding status in a manner and at a frequency
23 prescribed by the department, subject to the provisions in subsection (3).

24 (2) Funds deducted and withheld from unemployment compensation must remain in the unemployment
25 insurance fund provided for in 39-51-401 until the funds are transferred as income tax payments to the internal
26 revenue service.

27 (3) The department shall:

28 ~~—(a)~~ follow all procedures specified by the United States department of labor and the internal revenue
29 service pertaining to the voluntary deduction and withholding of income tax from unemployment compensation;

30 and

1 ~~_____ (b) deduct and withhold from unemployment compensation amounts of federal income tax other than~~
 2 ~~those specified in subsection (1)(c) in accordance with the priorities established by the department by rule."~~

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4 **Section 4.** Section 50-73-205, MCA, is amended to read:

5 **"50-73-205. Copies of maps for department.** The original or true copies of all maps must be kept in
 6 the office at the mine, and true copies must also be furnished to the department ~~within 30 days after their~~
 7 ~~completion upon request.~~ The maps delivered to the department become the property of the state. The maps
 8 must be kept at the office of the department and are open to inspection by all persons interested in them. An
 9 examination may only be made in the presence of a department inspector, and the inspector may not permit any
 10 copies of the maps to be made without the written consent of the operator or owner of the property, under penalty
 11 of removal from office."

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13 **Section 5.** Section 50-73-206, MCA, is amended to read:

14 **"50-73-206. Maps to be updated on basis of semiannual surveys.** An extension of the last preceding
 15 survey of every mine in active operation shall be made once every 6 months, and the result of the survey, with
 16 the date, ~~shall~~ must be promptly and accurately entered upon the original maps ~~so as~~ to show all changes in plan
 17 or new work in the mine and all extensions of the workings to the most advanced boundary of the workings ~~which~~
 18 that have been made since the preceding survey. ~~The changes and extensions shall be entered on the copies~~
 19 ~~of the maps of the department or new copies furnished it within 30 days after the last survey is made."~~

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21 **Section 6.** Section 50-73-209, MCA, is amended to read:

22 **"50-73-209. Procedure when operator fails to furnish or update map.** When the operator of a mine
 23 neglects or refuses or fails to respond to the department's request for a copy of a map or an updated map for any
 24 cause ~~not satisfactory to~~ considered unsatisfactory by the department ~~fails for a period of 3 months to furnish the~~
 25 ~~department the map or plan of the mine or of the extension or a copy,~~ the department may make or cause to be
 26 made an accurate map or plan of the mine at the expense of the owner or lessee, and the cost may be recovered
 27 from the owner, lessee, or operator in the same manner as other debts by suit in the name of the state."

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29 NEW SECTION. **Section 7. Repealer.** The following sections of the Montana Code Annotated are
 30 repealed:

- 1 23-3-301. Definitions.
- 2 23-3-402. Enforcement of rules.
- 3 23-3-404. Jurisdiction -- license required -- contestant participation.
- 4 23-3-405. Rules.
- 5 23-3-501. Licenses -- fees.
- 6 23-3-503. Event license required -- fee -- rulemaking.
- 7 23-3-603. Discipline.
- 8 23-3-611. Violation as misdemeanor.
- 9 39-71-1003. Payment for vocational rehabilitation expenses for injuries occurring on or before June 30, 1997.
- 10 39-71-1004. Industrial accident rehabilitation account.

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12 NEW SECTION. **Section 8. Transfer of funds.** The entire balance of the industrial accident

13 rehabilitation account provided by 39-71-1004 is transferred to the uninsured employers' fund provided for by

14 39-71-503.

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16 NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

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