

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 203

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Yvette Herrell

AN ACT

RELATING TO LICENSING; ENACTING A NEW SECTION OF THE UNIFORM
LICENSING ACT AND AMENDING SECTIONS OF THE NMSA 1978 TO ALLOW
APPLICANTS TO ELECTRONICALLY FILL OUT A FULL APPLICATION TO
OBTAIN, RENEW, REACTIVATE AND REINSTATE PROFESSIONAL AND
OCCUPATIONAL LICENSES, CERTIFICATIONS AND PERMITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Uniform Licensing Act is
enacted to read:

"[NEW MATERIAL] ELECTRONIC APPLICATIONS FOR LICENSES.--To
the extent practicable, the board shall provide by rule the
manner by which an applicant may electronically satisfy all
board requirements to obtain, renew, reactivate and reinstate
professional and occupational licenses, certifications and
permits."

.188375.2

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
~~[bracketed material] = delete~~

1 SECTION 2. Section 60-1A-4 NMSA 1978 (being Laws 2007,
2 Chapter 39, Section 4) is amended to read:

3 "60-1A-4. COMMISSION--POWERS--DUTIES.--

4 A. The commission may:

5 (1) grant, deny, suspend or revoke
6 occupational licenses, secondary licenses and racetrack
7 licenses, establish the terms for each classification of a
8 racetrack license and set fees for submitting an application
9 for a license;

10 (2) exclude or compel the exclusion of a
11 person from all horse racetracks who the commission deems
12 detrimental to the best interests of horse racing or who
13 willfully violates the Horse Racing Act, a rule or order of the
14 commission or a law of the United States or New Mexico;

15 (3) compel the production of documents, books
16 and tangible items, including documents showing the receipts
17 and disbursements of a racetrack licensee;

18 (4) investigate the operations of a licensee
19 and place a designated representative on the licensed premises
20 of a racetrack licensee for the purpose of observing compliance
21 with the Horse Racing Act and rules or orders of the
22 commission;

23 (5) employ staff as required to administer the
24 Horse Racing Act and employ staff with basic law enforcement
25 training to be stationed at racetracks to maintain peace and

.188375.2

1 order, enforce the law, conduct investigations and enforce the
2 Horse Racing Act or rules or orders of the commission; provided
3 that staff employed with law enforcement training may not carry
4 firearms or other deadly weapons while on duty for the
5 commission;

6 (6) summon witnesses;

7 (7) administer oaths for the effective
8 discharge of the commission's authority; and

9 (8) appoint a hearing officer to conduct
10 hearings required by the Horse Racing Act or a rule adopted
11 pursuant to that act.

12 B. The commission shall:

13 (1) make rules to hold, conduct and operate
14 all race meets and horse races held in the state and to
15 identify and assign racing dates;

16 (2) require the following information for each
17 applicant on an application for a license:

18 (a) the full name, address and contact
19 information of the applicant, and if the applicant is a
20 corporation, the name of the state of incorporation and the
21 names, addresses and contact information of officers, members
22 of the board of directors and managers of the corporation;

23 (b) the exact location at which the
24 applicant desires to conduct a horse race or race meet;

25 (c) whether the horse racetrack is owned

underscored material = new
~~[bracketed material] = delete~~

1 or leased, and, if leased, the name and residence of the fee
2 owner of the land or, if the owner is a corporation, the names
3 of the directors and stockholders;

4 (d) a statement of the assets and
5 liabilities of the person or corporation making the
6 application;

7 (e) the kind of racing to be conducted;

8 (f) the beginning and ending dates
9 desired for the race meet and the days during that time period
10 when horse races are to be scheduled; and

11 (g) other information determined by the
12 commission to be necessary to assess the potential for success
13 of the applicant;

14 (3) require a statement under oath by the
15 applicant that the information on the application is true;

16 (4) supervise and oversee the making of pari-
17 mutuel pools and the distribution from those pools;

18 (5) make on-site inspections of horse
19 racetracks in New Mexico at reasonable intervals;

20 (6) approve all improvements proposed to be
21 completed on the licensed premises of a horse racetrack,
22 including extensions, additions or improvements of buildings,
23 stables or tracks;

24 (7) monitor and oversee the pari-mutuel
25 machines and equipment at all horse races or race meets held in

.188375.2

underscored material = new
[bracketed material] = delete

1 the state;

2 (8) approve contracts for simulcasting, pari-
3 mutuel wagering and capital improvements funded pursuant to
4 Section 60-1A-20 NMSA 1978 entered into by horse racetracks;

5 (9) regulate the size of the purses to be
6 offered at horse races run in the state;

7 (10) require background investigations of
8 employees of a racetrack licensee as set forth in the rules of
9 the commission; [~~and~~]

10 (11) to the extent practicable, provide by
11 rule the manner by which an applicant may electronically
12 satisfy all commission requirements to obtain, renew,
13 reactivate and reinstate a license; and

14 [~~(11)~~] (12) provide an annual report to the
15 governor regarding the commission's administration of horse
16 racing in the state."

17 SECTION 3. Section 60-2A-9 NMSA 1978 (being Laws 1980,
18 Chapter 90, Section 9) is amended to read:

19 "60-2A-9. LICENSES TO CONDUCT PROFESSIONAL CONTESTS.--

20 A. The commission may issue licenses to conduct,
21 hold or give a professional contest to any promoter under such
22 terms and in accordance with such rules as the commission may
23 adopt.

24 B. Any application for [~~such~~] a license shall be in
25 writing and shall correctly show the promoter. The application

.188375.2

underscored material = new
[bracketed material] = delete

1 shall be accompanied by the annual fee prescribed by law.

2 C. Before any license is granted to a promoter, the
3 promoter must file a bond in an amount fixed by the commission
4 but not less than two thousand dollars (\$2,000) with good and
5 sufficient surety and conditioned for the faithful performance
6 by the promoter of the provisions of the Professional Athletic
7 Competition Act.

8 D. The commission shall, to the extent practicable,
9 provide by rule the manner by which an applicant may
10 electronically satisfy all commission requirements to obtain a
11 license."

12 SECTION 4. Section 60-2C-3 NMSA 1978 (being Laws 1989,
13 Chapter 346, Section 3, as amended) is amended to read:

14 "60-2C-3. LICENSE OR PERMIT REQUIRED FOR SALE OF
15 FIREWORKS--ADMINISTRATION--PERMITS AND LICENSES.--

16 A. No person may sell, hold for sale, import,
17 distribute or offer for sale, as manufacturer, distributor,
18 wholesaler or retailer, any fireworks in this state unless
19 [~~such~~] the person has first obtained the appropriate license or
20 permit.

21 B. The state fire marshal shall enforce the
22 Fireworks Licensing and Safety Act. All license applications
23 shall be submitted to the office of the state fire marshal.
24 All retailers shall be required to purchase a retail fireworks
25 permit for each retail location. The retail permit may be

.188375.2

underscored material = new
[bracketed material] = delete

1 purchased from ~~[any]~~ a licensed manufacturer, distributor or
2 wholesaler or from the state fire marshal's office. Retail
3 permits may be purchased at any time by the licensed
4 manufacturer, distributor or wholesaler in books of twenty
5 permits per book from the state fire marshal. Permits shall be
6 numbered, and it ~~[shall be]~~ is the responsibility of the
7 licensed manufacturer, distributor or wholesaler to keep
8 records of the purchases of these permits and to submit these
9 records to the state fire marshal semiannually on January 31
10 and July 31 of each year. Each semiannual report is to cover
11 the preceding six-month period. Retail permits that are unsold
12 may be exchanged for new permits.

13 C. The state fire marshal shall appoint the
14 deputies and employees required to carry out the provisions of
15 the Fireworks Licensing and Safety Act. The state fire marshal
16 may also appoint ~~[any]~~ a commissioned law enforcement officer
17 or duly appointed fire chief or ~~[his]~~ the law enforcement
18 officer's or fire chief's designee with approval from the local
19 governing body required to carry out the provisions of that
20 act.

21 D. The ~~[state]~~ fire ~~[board]~~ marshal division shall
22 formulate, adopt, promulgate and amend or revise rules and
23 regulations for the safe handling of fireworks.

24 E. The state fire board shall, to the extent
25 practicable, provide by rule the manner by which an applicant

.188375.2

underscoring material = new
[bracketed material] = delete

1 may electronically satisfy all board requirements to obtain the
2 appropriate license or permit."

3 SECTION 5. Section 60-2D-7 NMSA 1978 (being Laws 1991,
4 Chapter 233, Section 7) is amended to read:

5 "60-2D-7. RULES AND REGULATIONS.--The commission shall
6 promulgate reasonable rules and regulations governing bicycle
7 racing in this state. These rules and regulations shall:

8 A. govern the application procedures for all
9 licenses issued by the commission;

10 B. provide for the supervision, direction and
11 discipline of licensees of the commission;

12 C. govern, subject to the Uniform Licensing Act,
13 the issuance, suspension and revocation of licenses issued by
14 the commission;

15 D. to the extent practicable, provide the manner by
16 which an applicant may electronically satisfy all commission
17 requirements to obtain or renew a license;

18 [~~D.~~] E. provide for the barring from bicycle racing
19 and bicycle-racing tracks of any persons, including those
20 required to be licensed by the commission;

21 [~~E.~~] F. determine the distribution of the gross
22 receipts of all pari-mutuel bicycle-racing wagers that shall be
23 payable as pari-mutuel winnings, as race purses to the winning
24 bicycle racers and as commissions to the licensee;

25 [~~F.~~] G. set standards for the holding, conducting

.188375.2

underscoring material = new
[bracketed material] = delete

1 and operating of all bicycle races, race meets and racetracks
2 under the supervision of the commission; and

3 [~~G-~~] H. become effective only after they have been
4 filed in accordance with the State Rules Act."

5 SECTION 6. Section 60-2E-8 NMSA 1978 (being Laws 1997,
6 Chapter 190, Section 10, as amended) is amended to read:

7 "60-2E-8. BOARD REGULATIONS--DISCRETIONARY REGULATIONS--
8 PROCEDURE--REQUIRED PROVISIONS.--

9 A. The board may adopt any regulation:

10 (1) consistent with the provisions of the
11 Gaming Control Act; and

12 (2) it decides is necessary to implement the
13 provisions of the Gaming Control Act.

14 B. No regulation shall be adopted, amended or
15 repealed without a public hearing on the proposed action before
16 the board or a hearing officer designated by it. Notice of the
17 subject matter of the regulation, the action proposed to be
18 taken, the time and place of the hearing, the manner in which
19 interested persons may present their views and the method by
20 which copies of the proposed regulation, amendment or repeal
21 may be obtained shall be published once at least thirty days
22 prior to the hearing date in a newspaper of general circulation
23 and mailed at least thirty days prior to the hearing date to
24 all persons who have made a written request for advance notice
25 of hearing. All regulations and actions taken on regulations

.188375.2

underscored material = new
[bracketed material] = delete

1 shall be filed in accordance with the State Rules Act.

2 C. The board shall adopt regulations:

3 (1) prescribing the method and form of
4 application to be followed by an applicant;

5 (2) prescribing the information to be
6 furnished by an applicant or licensee concerning the
7 applicant's or licensee's antecedents, immediate family,
8 habits, character, associates, criminal record, business
9 activities and financial affairs, past or present;

10 (3) prescribing the manner and procedure of
11 all hearings conducted by the board or a hearing officer;

12 (4) prescribing the manner and method of
13 collection and payment of fees;

14 (5) prescribing the manner and method of the
15 issuance of licenses, permits, registrations, certificates and
16 other actions of the board not elsewhere prescribed in the
17 Gaming Control Act;

18 (6) providing, to the extent practicable, the
19 manner by which an applicant may electronically satisfy all
20 board requirements to obtain or renew a certification, permit,
21 registration or license, to fully fill out a supplemental form
22 or provide information that may be required with the
23 application and to obtain approval of an act or transaction for
24 which approval is required or allowed pursuant to the
25 provisions of the Gaming Control Act;

.188375.2

underscoring material = new
~~[bracketed material] = delete~~

1 [~~(6)~~] (7) defining the area, games and gaming
2 devices allowed and the methods of operation of the games and
3 gaming devices for authorized gaming;

4 [~~(7)~~] (8) prescribing under what conditions
5 the nonpayment of winnings is grounds for suspension or
6 revocation of a license of a gaming operator;

7 [~~(8)~~] (9) governing the manufacture, sale,
8 distribution, repair and servicing of gaming devices;

9 [~~(9)~~] (10) prescribing accounting procedures,
10 security, collection and verification procedures required of
11 licensees and matters regarding financial responsibility of
12 licensees;

13 [~~(10)~~] (11) prescribing what shall be
14 considered to be an unsuitable method of operating gaming
15 activities;

16 [~~(11)~~] (12) restricting access to confidential
17 information obtained pursuant to the provisions of the Gaming
18 Control Act and ensuring that the confidentiality of that
19 information is maintained and protected;

20 [~~(12)~~] (13) prescribing financial reporting
21 and internal control requirements for licensees;

22 [~~(13)~~] (14) prescribing the manner in which
23 winnings, compensation from gaming activities and net take
24 shall be computed and reported by a gaming operator licensee;

25 [~~(14)~~] (15) prescribing the frequency of and

.188375.2

underscored material = new
~~[bracketed material]~~ = delete

1 the matters to be contained in audits of and periodic financial
2 reports relevant to the gaming operator licensee's gaming
3 activities from a gaming operator licensee consistent with
4 standards prescribed by the board;

5 [~~(15)~~] (16) prescribing the procedures to be
6 followed by a gaming operator licensee for the exclusion of
7 persons from gaming establishments;

8 [~~(16)~~] (17) establishing criteria and
9 conditions for the operation of progressive systems;

10 [~~(17)~~] (18) establishing criteria and
11 conditions for approval of procurement by the board of personal
12 property valued in excess of twenty thousand dollars (\$20,000),
13 including background investigation requirements for a person
14 submitting a bid or proposal;

15 [~~(18)~~] (19) establishing an applicant fee
16 schedule for processing applications that is based on costs of
17 the application review incurred by the board whether directly
18 or through payment by the board for costs charged for
19 investigations of applicants by state departments and agencies
20 other than the board, which regulation shall set a maximum fee
21 of one hundred thousand dollars (\$100,000); and

22 [~~(19)~~] (20) establishing criteria and
23 conditions for allowing temporary possession of gaming devices:

24 (a) by post-secondary educational
25 institutions;

.188375.2

underscoring material = new
~~[bracketed material] = delete~~

- 1 (b) for trade shows;
- 2 (c) for film or theater productions; or
- 3 (d) for other non-gaming purposes."

4 SECTION 7. Section 60-2F-10 NMSA 1978 (being Laws 2009,
5 Chapter 81, Section 10) is amended to read:

6 "60-2F-10. APPLICATION FOR LICENSES OR PERMITS.--

7 A. Each applicant for a license or permit to be
8 issued under the New Mexico Bingo and Raffle Act shall file
9 with the board a written application in the form prescribed by
10 the board, duly executed and verified and containing:

11 (1) the name and address of the applicant;

12 (2) if not an individual, sufficient facts
13 relating to its incorporation or organization to enable the
14 board to determine whether or not the applicant is qualified
15 and the names and addresses of its officers, members of the
16 board of directors and managers;

17 (3) such other information deemed necessary by
18 the board to ensure that the applicant complies with the
19 provisions of the New Mexico Bingo and Raffle Act and rules
20 adopted pursuant to that act; and

21 (4) an affirmation signed by the applicant or
22 the applicant's agent that the information contained in the
23 application is true and accurate. The application shall be
24 signed by the applicant or the applicant's agent, and the
25 signature shall be notarized.

.188375.2

underscored material = new
[bracketed material] = delete

1 B. In addition to the requirements of Subsection A
2 of this section, each applicant for a bingo license shall
3 provide the board with the following:

4 (1) the names of the bingo manager, the bingo
5 caller and the game accountant, and a statement from those
6 persons that they shall be responsible for the holding,
7 operation and conduct of games of chance in accordance with the
8 terms of the license and the provisions of the New Mexico Bingo
9 and Raffle Act;

10 (2) sufficient facts relating to the
11 organization to enable the board to determine whether or not it
12 is a qualified organization;

13 (3) the exact location at which the applicant
14 will conduct bingo and pull-tabs;

15 (4) the specific kind of games of chance
16 intended to be conducted; and

17 (5) whether the premises are owned or leased
18 and, if leased, the name and address of the fee owner of the
19 land or, if the owner is a corporation, the names of the
20 directors and members of the board of directors.

21 C. The board shall, to the extent practicable,
22 provide by rule the manner by which an applicant may
23 electronically satisfy all board requirements to obtain or
24 renew a license or permit.

25 ~~[G-]~~ D. The failure to accurately and truthfully

.188375.2

underscored material = new
[bracketed material] = delete

1 provide the information required in Subsection A, [~~or~~] B or C
2 of this section is a violation of the New Mexico Bingo and
3 Raffle Act and shall subject the applicant to the provisions of
4 Sections [~~14, 23 and 25 of that act~~] 60-2F-14, 60-2F-23 and
5 60-2F-25 NMSA 1978."

6 SECTION 8. Section 60-3A-10 NMSA 1978 (being Laws 2001,
7 Chapter 86, Section 7) is amended to read:

8 "60-3A-10. ADMINISTRATIVE RULES AND ORDERS--PRESUMPTION
9 OF CORRECTNESS.--

10 A. The director shall issue and file as required by
11 law all rules and orders necessary to administer the licensing
12 provisions of the Liquor Control Act.

13 B. Directives issued by the director shall be in
14 form substantially as follows:

15 (1) rules are written statements of the
16 director, of general application to licensees, interpreting and
17 exemplifying the statutes to which they relate;

18 (2) rulings are written statements of the
19 director interpreting the statutes to which they relate and are
20 of limited application to one or a small number of licensees;
21 and

22 (3) orders are written statements of the
23 director to implement [~~his~~] the director's decision after a
24 hearing.

25 C. To be effective, a rule shall first be issued as

.188375.2

underscored material = new
[bracketed material] = delete

1 a proposed rule and filed for public inspection in the office
2 of the director. Distribution of the rule shall be made to
3 interested persons and their comments shall be invited. After
4 the proposed rule has been on file for thirty days and a public
5 hearing has been held, the director may issue it as a final
6 rule by filing as required by law.

7 D. The commission shall, to the extent practicable,
8 provide by rule the manner by which an applicant may
9 electronically satisfy all requirements to obtain or renew any
10 license or permit required pursuant to the provisions of the
11 Liquor Control Act.

12 [~~D-~~] E. The director shall furnish a copy of the
13 rules to all licensees and other interested persons at a
14 nominal cost.

15 [~~E-~~] F. A rule or order issued by the director is
16 presumed to be a proper implementation of the licensing
17 provisions of the Liquor Control Act.

18 [~~F-~~] G. All rules and orders shall be applied
19 prospectively only."

20 **SECTION 9.** Section 60-13-9 NMSA 1978 (being Laws 1978,
21 Chapter 73, Section 1, as amended) is amended to read:

22 "60-13-9. DIVISION--DUTIES.--The division shall:

23 A. approve and adopt examinations on codes and
24 standards, business knowledge, division rules and regulations
25 and on the Construction Industries Licensing Act recommended by

.188375.2

underscoring material = new
~~[bracketed material] = delete~~

1 the commission for all classifications of contractor's
2 licenses;

3 B. issue, under the director's signature,
4 contractor's licenses and certificates of qualification in
5 accordance with the provisions of the Construction Industries
6 Licensing Act;

7 C. submit a list of all contractor's licenses and
8 certificates of qualification issued by the division to the
9 commission for review and approval;

10 D. resolve jurisdictional conflicts by assigning
11 specific responsibility to the appropriate bureau for preparing
12 examinations and for certifying and inspecting each occupation,
13 trade or activity covered by the Construction Industries
14 Licensing Act;

15 E. establish and collect fees authorized to be
16 collected by the division pursuant to the Construction
17 Industries Licensing Act;

18 F. adopt all building codes and minimum standards
19 as recommended by the trade bureaus and approved by the
20 commission so that the public welfare is protected, uniformity
21 is promoted and conflicting provisions are avoided;

22 G. with approval of the superintendent of
23 regulation and licensing, employ such personnel as the division
24 deems necessary for the exclusive purpose of investigating
25 violations of the Construction Industries Licensing Act,

.188375.2

underscored material = new
[bracketed material] = delete

1 enforcing Sections 60-13-12 and 60-13-38 NMSA 1978 and
2 instituting legal action in the name of the division to
3 accomplish the provisions of Section 60-13-52 NMSA 1978;

4 H. approve, disapprove or revise the recommended
5 budget of each trade bureau and submit the budgets of those
6 bureaus, along with its own budget, to the regulation and
7 licensing department;

8 I. approve, disapprove or revise and submit to the
9 regulation and licensing department all requests of the trade
10 bureaus for emergency budget transfers;

11 J. make an annual report to the superintendent of
12 regulation and licensing and develop a policy manual concerning
13 the operations of the division and the trade bureaus. The
14 report shall also contain the division's recommendations for
15 legislation it deems necessary to improve the licensing and
16 technical practices of the construction and LP gas industries
17 and to protect persons, property and agencies of the state and
18 its political subdivisions;

19 K. adopt, subject to commission approval, rules and
20 regulations necessary to carry out the provisions of the
21 Construction Industries Licensing Act and the LPG and CNG Act;

22 L. to the extent practicable, provide by rule the
23 manner by which an applicant may electronically satisfy all
24 requirements to obtain, renew or continue any license, permit
25 or certificate required, pursuant to the provisions of the

.188375.2

underscored material = new
[bracketed material] = delete

1 Construction Industries Licensing Act and the LPG and CNG Act;

2 ~~[H.]~~ M. maintain a complete record of all
3 applications; all licenses issued, renewed, canceled, revoked
4 and suspended; and all fines and penalties imposed by the
5 division or commission and may make that information available
6 to certified code jurisdictions;

7 ~~[M.]~~ N. furnish, upon payment of a reasonable fee
8 established by the division, a certified copy of any license
9 issued or of the record of the official revocation or
10 suspension thereof. Such certified copy shall be prima facie
11 evidence of the facts stated therein; and

12 ~~[N.]~~ O. publish a list of contractors, with their
13 addresses and classifications, licensed by the division. The
14 list shall be furnished without charge to such public
15 officials, public bodies or public works and building
16 departments as the division deems advisable. The list shall be
17 published annually, and supplements shall be provided as the
18 division deems necessary. Copies of the list and supplements
19 shall be furnished to any person upon request and payment of a
20 reasonable fee established by the division."

21 **SECTION 10.** Section 60-13A-3 NMSA 1978 (being Laws 1993,
22 Chapter 162, Section 3) is amended to read:

23 "60-13A-3. REGISTRATION AS AN EMPLOYEE LEASING CONTRACTOR
24 REQUIRED AS CONDITION TO DO BUSINESS IN THE STATE.--

25 A. No person shall do business in the state as an

.188375.2

underscored material = new
[bracketed material] = delete

1 employee leasing contractor unless the person is registered
2 with the department.

3 B. Registration shall be renewed annually. The
4 renewal date shall be the first day of the month one year after
5 the month in which the initial registration occurred.

6 C. Applications for initial registration and
7 renewals of registration shall be made on forms supplied by the
8 department and shall contain the information required by
9 Section [~~6 of the Employee Leasing Act~~] 60-13A-6 NMSA 1978.

10 The department may by regulation require additional information
11 for initial registration and renewal of registration.

12 D. The department shall, to the extent practicable,
13 provide by rule the manner by which an applicant may
14 electronically satisfy all department requirements to obtain or
15 renew a license or registration.

16 [~~D-~~] E. Upon initial registration, an employee
17 leasing contractor shall pay a fee to the department of one
18 thousand dollars (\$1,000). On the annual renewal date, the
19 employee leasing contractor shall pay an annual renewal fee of
20 one thousand dollars (\$1,000).

21 [~~E-~~] F. Neither the initial registration fee nor
22 the renewal fee is refundable.

23 [~~F-~~] G. If a registered employee leasing contractor
24 does not submit a completed renewal application within thirty
25 days after the annual renewal date, the department shall mail a

.188375.2

underscored material = new
[bracketed material] = delete

1 notice to the contractor by certified mail, return receipt
2 requested, which notice shall inform the contractor that unless
3 the renewal fee is paid within thirty days of the receipt of
4 the notice by the contractor, together with a delinquency
5 charge of five hundred dollars (\$500), the contractor's
6 registration shall be canceled. The department shall cancel
7 the registration of any contractor who does not comply with the
8 requirements for payment of a renewal fee and a delinquency
9 charge."

10 SECTION 11. Section 60-14-4 NMSA 1978 (being Laws 1978,
11 Chapter 80, Section 1, as amended) is amended to read:

12 "60-14-4. POWERS AND DUTIES OF DIVISION.--The division
13 shall:

14 A. prepare, administer and grade examinations for
15 licensure under the classification sought by each applicant;

16 B. issue licenses and certificates of qualification
17 in accordance with the provisions of the Manufactured Housing
18 Act;

19 C. to the extent practicable, provide by rule the
20 manner by which an applicant may electronically satisfy all
21 division requirements to obtain or renew a license, permit or
22 certification required pursuant to the provisions of the
23 Manufactured Housing Act;

24 [~~G.~~] D. establish and collect fees authorized to be
25 collected by the division pursuant to the Manufactured Housing

.188375.2

underscoring material = new
[bracketed material] = delete

1 Act;

2 ~~[D-]~~ E. subject to the approval of the committee,
3 adopt rules and regulations relating to the construction,
4 repair, modification, installation, tie-down, hookup and sale
5 of all manufactured homes, which regulations shall be uniform
6 throughout the state and shall be enforced by inspectors for
7 the division to insure minimum standards of safety within the
8 state and any of its political subdivisions. Ordinances of any
9 political subdivision of New Mexico relating to gas, including
10 natural gas, liquefied petroleum gas or synthetic natural gas;
11 electricity; sanitary plumbing; and installation or sale of
12 manufactured homes shall not be inconsistent with any rules,
13 regulations, codes or standards adopted by the division
14 pursuant to the Manufactured Housing Act;

15 ~~[E-]~~ F. adopt a budget and submit it to the
16 regulation and licensing department for approval;

17 ~~[F-]~~ G. make an annual report to the superintendent
18 of regulation and licensing concerning the operations of the
19 division. The report shall contain the division's
20 recommendations for legislation that it deems necessary to
21 improve the licensing and the ethical and technical practices
22 of the manufactured housing industry and to protect the public
23 welfare;

24 ~~[G-]~~ H. subject to the approval of the committee,
25 adopt such rules, regulations, codes and standards as are

.188375.2

underscoring material = new
~~[bracketed material] = delete~~

1 necessary to carry out the provisions of the Manufactured
2 Housing Act;

3 ~~[H.]~~ I. prepare a uniform manufacturer's warranty
4 and require its adoption as a condition of licensure by all
5 manufacturers of manufactured homes doing business in New
6 Mexico;

7 ~~[I.]~~ J. subject to the approval of the committee,
8 adopt by regulation the mobile home construction and safety
9 standards contained in the National Mobile Home Construction
10 and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as
11 amended;

12 ~~[J.]~~ K. subject to the approval of the committee,
13 adopt by regulation the mobile home procedural and enforcement
14 regulations, 24 C.F.R. 3282, as amended, promulgated by the
15 department of housing and urban development pursuant to the
16 National Mobile Home Construction and Safety Standards Act of
17 1974, 42 U.S.C. 5401 et seq., as amended;

18 ~~[K.]~~ L. issue permits and provide for a single
19 inspection of every installation in New Mexico, regardless of
20 the location;

21 ~~[L.]~~ M. subject to the approval of the committee,
22 adopt regulations prescribing standards for the installation or
23 use of electrical wiring; the installation of all fixtures,
24 plumbing, consumer's gas pipe, including natural gas, liquefied
25 petroleum gas and synthetic natural gas, appliances and

.188375.2

underscored material = new
[bracketed material] = delete

1 materials installed in the course of mechanical installation;
2 and the construction, alteration, installation and repair of
3 all manufactured homes intended for use in flood or mudslide
4 areas designated pursuant to Section 3-18-7 NMSA 1978. The
5 regulations shall give due regard to standards prescribed by
6 the federal insurance administration pursuant to regulation
7 1910, Subsection 7(d), 79 Stat. 670, Section 1361, 82 Stat. 587
8 and 82 Stat. 5757, all as amended, and shall give due regard to
9 physical, climatic and other conditions peculiar to New Mexico;

10 ~~[M.]~~ N. conduct "inspector schools" so that each
11 inspector under the division's jurisdiction is capable of
12 giving a complete one-time inspection for the sufficiency of
13 unit installation, construction and mechanical and electrical
14 systems;

15 ~~[N.]~~ O. enter into cooperative agreements with
16 federal agencies relating to manufactured housing and accept
17 and use federal grants, matching funds or other financial
18 assistance to further the purposes of the Manufactured Housing
19 Act. The division may enter into agreements with
20 municipalities and counties to provide for the inspection of
21 manufactured homes by employees of municipalities and counties,
22 to be performed under the supervision and control of the
23 division. The division may allow all or a portion of the
24 inspection fee collected by a local public body to be retained
25 by the local public body. The portion of the fee retained

.188375.2

underscoring material = new
~~[bracketed material]~~ = delete

1 shall be determined by the division and shall be related to the
2 completeness of the inspection performed;

3 ~~[P.]~~ P. administer oaths through any member of the
4 division, the director or a hearing officer;

5 ~~[P.]~~ Q. subject to the approval of the committee,
6 adopt rules and regulations for the conducting of hearings and
7 the presentation of views, consistent with the regulations
8 promulgated by the department of housing and urban development,
9 24 C.F.R. 3282.151 through 3282.156, as amended;

10 ~~[Q.]~~ R. subject to the approval of the committee,
11 adopt by regulation a requirement that dealers, repairmen and
12 installers provide to consumers warranties on their product and
13 work and prescribe by regulation minimum requirements of such
14 warranties;

15 ~~[R.]~~ S. coordinate with and qualify inspectors for
16 any multiple inspection program provided by the construction
17 industries division of the regulation and licensing department
18 for inspection of manufactured homes;

19 ~~[S.]~~ T. subject to the approval of the committee,
20 adopt regulations, codes and standards for manufactured homes
21 used for nonresidential purposes; provided such manufactured
22 homes being used for nonresidential purposes on May 18, 1988
23 shall not be required to meet Uniform Building Code standards,
24 except as to requirements for access to the handicapped, but
25 manufactured homes being used for nonresidential purposes after

.188375.2

underscored material = new
[bracketed material] = delete

1 May 18, 1988 shall be required to meet Uniform Building Code
2 standards. None of the provisions contained in this subsection
3 shall apply to retailers licensed by the motor vehicle division
4 of the taxation and revenue department; and

5 ~~[F.]~~ U. with the approval of the superintendent of
6 regulation and licensing, employ such personnel as the director
7 deems necessary for the exclusive purposes of investigating
8 violations of the Manufactured Housing Act, enforcing Section
9 60-14-17 NMSA 1978 and instituting legal action in the name of
10 the division to enforce the provisions of Section 60-14-19 NMSA
11 1978."

12 SECTION 12. Section 60-15-7 NMSA 1978 (being Laws 1993,
13 Chapter 183, Section 7, as amended) is amended to read:

14 "60-15-7. REQUIREMENTS FOR LICENSURE.--

15 A. The department shall issue a license for a class
16 I hoisting operator to a person who files a completed
17 application, accompanied by the required fees, and who submits
18 satisfactory evidence that ~~[he]~~ the person:

19 (1) is at least twenty-one years of age;

20 (2) has passed a written examination as
21 prescribed by the department;

22 (3) has had a physical examination, including
23 substance abuse testing, within the twelve-month period
24 preceding the date of ~~[his]~~ application, showing that the
25 applicant is in satisfactory physical condition for performing

.188375.2

underscored material = new
[bracketed material] = delete

1 the functions of a class I hoisting operator; and

2 (4) has had at least three years' experience
3 in operating hoisting equipment with a manufacturer's rating
4 capacity equal to or greater than fifty tons and a boom length
5 of one hundred feet for a conventional crane endorsement,
6 equipment with a manufacturer's rating capacity equal to or
7 greater than one hundred tons and a boom length of one hundred
8 feet for a hydraulic crane endorsement or a tower crane of any
9 size or type for a tower crane endorsement or otherwise
10 demonstrates [~~his~~] the person's operating experience and
11 competency by completing an examination.

12 B. The department shall issue a license for a class
13 II hoisting operator to a person who files a completed
14 application, accompanied by the required fees, and who submits
15 satisfactory evidence that [~~he~~] the person:

16 (1) is at least eighteen years of age;

17 (2) has passed a written examination
18 prescribed by the department;

19 (3) has had a physical examination, including
20 substance abuse testing, within the twelve-month period
21 preceding the date of [~~his~~] application, showing that the
22 applicant is in satisfactory physical condition for performing
23 the functions of a class II hoisting operator; and

24 (4) has had at least two years' experience in
25 the actual operation of hydraulic cranes with over ten tons and

.188375.2

underscored material = new
[bracketed material] = delete

1 up to one hundred tons lifting capacity with a maximum boom
2 length of one hundred fifty feet, regardless of mounting or
3 means of mobility, or otherwise demonstrates [~~his~~] the person's
4 operating experience and competency by examination prescribed
5 by the department.

6 C. A class II hoisting operator who seeks to become
7 licensed as a class I hoisting operator shall keep a log book
8 of [~~his~~] the class II hoisting operator's seat time and must
9 accumulate five hundred hours of seat time under the direct
10 supervision of a class I hoisting operator.

11 D. The department shall issue a license for a class
12 III hoisting operator to a person who files a completed
13 application, accompanied by the required fees, and who submits
14 satisfactory evidence that [~~he~~] the person:

- 15 (1) is at least eighteen years of age;
16 (2) has passed an examination prescribed by
17 the department; and
18 (3) has had a physical examination, including
19 substance abuse testing, within the twelve-month period
20 preceding the date of [~~his~~] application, showing that the
21 applicant is in satisfactory physical condition for performing
22 the functions of a class III hoisting operator.

23 E. A class III hoisting operator who seeks to
24 become licensed as a class I or class II hoisting operator
25 shall keep a log book of [~~his~~] the class III hoisting

.188375.2

underscoring material = new
~~[bracketed material] = delete~~

1 operator's seat time and must accumulate five hundred hours of
2 seat time or six thousand hours of experience under the direct
3 supervision of a class I or class II hoisting operator.

4 F. The department shall, to the extent practicable,
5 provide by rule the manner by which an applicant may
6 electronically satisfy all department requirements to obtain or
7 renew a license required pursuant to the provisions of the
8 Hoisting Operators Safety Act."