

---

## CHAPTER 52

# TOURIST CAMPGROUNDS AND TRAILER COURTS

---

### Part 1

#### General Provisions

**Administrative Rules:**

Title 37, chapter 111, subchapter 2, ARM Trailer courts and tourist campgrounds.

Title 37, chapter 111, subchapter 5, ARM Youth camps.

Title 37, chapter 111, subchapter 6, ARM Work camps.

**Collateral References:**

40 Am. Jur. 2d Hotels, Motels, and Restaurants § 5.

**50-52-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Campground" means a parcel of land available to and principally used by the public for camping, where persons can camp, secure tents or cabins, or park trailers for camping and sleeping purposes.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Establishment" means a campground, trailer court, work camp, or youth camp.

(4) "Parcel of land" means a unit of land all parts of which are contiguous, including contiguous lots, in the possession of, owned by, or managed by the same person.

(5) "Person" includes an individual, partnership, corporation, association, or other entity engaged in the business of operating, owning, or offering the services of a campground, trailer court, work camp, or youth camp.

(6) "Political subdivision" means any county, city, town, or other legally constituted unit of local government in this state.

(7) (a) "Trailer court" means a parcel of land upon which two or more spaces are available to the public and designated for occupancy by trailers or mobile homes for use as residences.

(b) The term does not include a parcel composed of platted lots, each lot of which:

(i) is filed with the county clerk and recorder;

(ii) contains only one trailer space; and

(iii) is served by a public water supply system and public sewage system that meet the requirements of rules for systems adopted pursuant to Title 75, chapter 6, part 1, and that are located within the boundaries of an incorporated city or town.

(8) "Work camp" means a parcel of land on which housing is provided by a person for two or more families or individuals living separately, for the exclusive use of the employees of the person and the families, if any, of the employees. For purposes of this subsection, "housing" includes but is not limited to camping spaces; trailer parking spaces; mobile, modular, or permanent barracks or structures; and any appurtenant water supply and distribution system, sewage collection and disposal system, solid waste collection and disposal system, or food service and dining facilities. Housing does not include shelter provided by an employer for persons who are employed to perform agricultural duties on a ranch or farm.

(9) (a) "Youth camp" means a parcel of land on which permanent buildings, tents, or other structures are maintained as living quarters for 10 or more people and that is used primarily for educational or recreational use by minors. The term includes any appurtenant water supply and distribution system, sewage collection and disposal system, solid waste collection and disposal system, or food service and dining facilities.

(b) The term does not include any site used solely by the members and their families of a private organization that owns the site.

**History:** En. Sec. 212, Ch. 197, L. 1967; amd. Sec. 1, Ch. 383, L. 1973; R.C.M. 1947, 69-5601; amd. Sec. 1, Ch. 341, L. 1983; amd. Sec. 138, Ch. 418, L. 1995; amd. Sec. 317, Ch. 546, L. 1995.

#### **Compiler's Comments:**

*1995 Amendments:* Chapter 418 in definition of Department substituted "department of public health" for "department of health and environmental sciences"; and made minor changes in style. Amendment effective July 1, 1995.

Chapter 546 in definition of Department substituted "department of public health and human services provided for in 2-15-2201" for "department of health and environmental sciences"; and made minor changes in style. Amendment effective July 1, 1995.

*Transition:* Section 499, Ch. 418, L. 1995, provided: "The provisions of 2-15-131 through 2-15-137 apply to [this act]."

*Saving Clause:* Section 503, Ch. 418, L. 1995, was a saving clause.

*Saving Clause:* Section 571, Ch. 546, L. 1995, was a saving clause.

*1983 Amendment:* Deleted definition of "board" as board of health and environmental sciences; deleted definition of "tourist campground", which read: "Tourist campground means a place used for public camping primarily by automobile tourists where persons can camp or secure tents or park individual trailers or truck trailers for camping and sleeping purposes"; inserted definitions of "campground", "establishment", "parcel of land", "political subdivision", "work camp", and "youth camp"; in

(5) deleted "tourist" before "campground" and inserted at end of (5) "work camp or youth camp"; rewrote (7) (see 1983 Session Law) from "trailer court means a parcel of land offered to the public and usually designated a trailer court, trailer park, or mobile home park upon which two or more spaces are occupied or intended for occupancy by trailers or mobile homes for nonrecreational dwelling purposes".

**50-52-102. Department to adopt rules.** The department may adopt rules for constructing and operating campgrounds, trailer courts, work camps, and youth camps to protect the public health and safety. The rules may include rules to:

(1) ensure that establishments have safe and sanitary facilities and systems, including drinking water, sewage disposal, and solid waste disposal systems;

(2) regulate service buildings or facilities associated with any activity regulated by this chapter, including laundry and food service facilities;

(3) provide for review and approval of plans and specifications for establishments;

(4) address nuisances that could cause the spread of disease or illness;

(5) implement staggered license expiration dates;

(6) address licensing of establishments under this chapter and operator requirements; and

(7) provide for reimbursing local governments for inspections and enforcement of this chapter.

**History:** En. Sec. 213, Ch. 197, L. 1967; amd. Sec. 2, Ch. 383, L. 1973; amd. Sec. 13, Ch. 140, L. 1977; R.C.M. 1947, 69-5602; amd. Sec. 2, Ch. 341, L. 1983; amd. Sec. 7, Ch. 350, L. 1997.

#### **Compiler's Comments:**

*1997 Amendment:* Chapter 350 near beginning, after "department", substituted "may" for "shall", after "youth camps" substituted "to protect the public health and safety" for "to insure sanitation and protect public health", and after "safety" inserted "The rules may include rules to"; and inserted (1) through (7) providing specific areas of public health and safety that may be included in the Department's rules. Amendment effective April 22, 1997.

*1997 Statement of Intent:* The statement of intent attached to Ch. 350, L. 1997, provided: "A statement of intent is required for this bill because additional rulemaking authority, beyond that already granted by 50-51-103 and 50-52-102, is being given to the department of public health and human services. The rulemaking authority will allow the department to adopt rules for establishments regulated by Title 50, chapter 51, in the following areas:

(1) requirements for food service;

(2) requirements for bed and breakfast establishments;

(3) requirements to implement staggered license expiration dates; and

(4) requirements addressing reimbursement of local governments for inspections and enforcement.

The amended rulemaking authority in 50-52-102 will clarify the department's authority to adopt rules for establishments regulated by Title 50, chapter 52, in the following areas:

(1) requirements to ensure that establishments have safe and sanitary facilities and systems;

(2) requirements for service buildings or facilities;

(3) requirements for plan review;

(4) requirements addressing nuisances that could cause the spread of disease or illness;

(5) requirements to implement staggered license expiration dates;

(6) requirements addressing licensing of establishments and operator requirements; and

(7) requirements addressing reimbursement of local governments for inspection and enforcement."

*1983 Amendment:* Deleted "tourist" before "campgrounds"; and inserted "work camps, and youth camps".

*Statement of Intent:* The statement of intent attached to HB 420 (Ch. 341, L. 1983) read: "A statement of intent is required for House Bill 420 [Ch. 341, L. 1983] because it adds authority for the Department of Health and Environmental Sciences [now Department of Public Health and Human Services] to adopt rules setting sanitation standards for work camps and youth camps. The law presently allows the department to set standards for trailer courts and tourist campgrounds ensuring a level of sanitation adequate to protect public health. The need for similar uniform state standards for work camps and youth camps has become apparent, largely because such facilities are not uniformly regulated across the state and are subject to local standards ranging from stringent to minimal. Therefore, it is the intent of House Bill 420 [Ch. 341, L. 1983] to give the department authority to set sanitation standards for

both work camps and youth camps which ensure adequate facilities exist for proper sewage disposal, require storage and disposal of solid waste in a manner adequate to prevent contamination and spread of disease, ensure that food is handled and food service maintained in a manner sufficient to prevent food-related illness, ensure that water supplies are adequate and uncontaminated, and define general housekeeping practices needed to ensure sanitation."

*Saving Clause:* Section 8, Ch. 341, L. 1983, was a saving clause.

*Severability:* Section 9, Ch. 341, L. 1983, was a severability section.

#### **Cross References:**

Adoption and publication of rules, Title 2, ch. 4, part 3.

Nuisances, Title 27, ch. 30.

Public water supplies, Title 75, ch. 6.

#### **Administrative Rules:**

Title 17, chapter 4, subchapter 5, ARM Montana Major Facility Siting Act.

Title 37, chapter 111, subchapter 2, ARM Trailer courts and tourist campgrounds.

Title 37, chapter 111, subchapter 5, ARM Youth camps.

Title 37, chapter 111, subchapter 6, ARM Work camps.

#### **Case Notes:**

*Blanket Approval Not Given for Expansion of Trailer Park -- Mandamus Properly Denied:* Where the appellant brought an action for mandamus to compel the county to issue a permit for construction of an addition to a trailer park, alleging that he had been given "blanket approval" in 1968 for all future additions when he submitted his original application for the initial construction permit, the District Court did not err in holding that the county did not give such blanket approval and in refusing to issue the writ. The record shows that the appellant acknowledged his duty to obtain a permit at each stage of expansion and that he did in fact apply for such a permit at each stage. Had the appellant received "blanket approval", these applications would have been idle gestures. There is therefore substantial evidence to support the District Court's findings and judgment. *Bailey v. Dept. of Health and Environmental Sciences*, 204 M 253, 664 P2d 325, 40 St. Rep. 825 (1983).

#### **Collateral References:**

Innkeepers *key* 2.

43A C.J.S. Inns, Hotels, and Eating Places §§ 6 through 10.

40 Am. Jur. 2d Hotels, Motels, and Restaurants §§ 27, 28, 36.

Maintenance or regulation by public authorities of tourist or trailer camps, motor courts, or motels. 22 ALR 2d 774.

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

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

(2) permit inspections by state or local health officers, sanitarians, or other authorized persons at all reasonable times.

**History:** En. Sec. 214, Ch. 197, L. 1967; amd. Sec. 3, Ch. 383, L. 1973; amd. Sec. 14, Ch. 140, L. 1977; R.C.M. 1947, 69-5603; amd. Sec. 3, Ch. 341, L. 1983.

#### **Compiler's Comments:**

*1983 Amendment:* In introductory clause substituted "an establishment" for "a tourist campground or trailer court"; rewrote (1) (see 1983 Session Law), which read: "obtain a license from the department".

*Statement of Intent:* The statement of intent attached to HB 420 (Ch. 341, L. 1983) read: "A statement of intent is required for House Bill 420 [Ch. 341, L. 1983] because it adds authority for the Department of Health and Environmental Sciences [now Department of Public Health and Human Services] to adopt rules setting sanitation standards for work camps and youth camps. The law presently allows the department to set standards for trailer courts and tourist campgrounds ensuring a level of sanitation adequate to protect public health. The need for similar uniform state standards for work camps

and youth camps has become apparent, largely because such facilities are not uniformly regulated across the state and are subject to local standards ranging from stringent to minimal. Therefore, it is the intent of House Bill 420 [Ch. 341, L. 1983] to give the department authority to set sanitation standards for both work camps and youth camps which ensure adequate facilities exist for proper sewage disposal, require storage and disposal of solid waste in a manner adequate to prevent contamination and spread of disease, ensure that food is handled and food service maintained in a manner sufficient to prevent food-related illness, ensure that water supplies are adequate and uncontaminated, and define general housekeeping practices needed to ensure sanitation."

*Saving Clause:* Section 8, Ch. 341, L. 1983, was a saving clause.

*Severability:* Section 9, Ch. 341, L. 1983, was a severability section.

**Cross References:**

Discrimination in licensing prohibited, 49-3-204.

One-step facility licensing, Title 50, ch. 8.

**Collateral References:**

Innkeepers *key* 4.

43A C.J.S. Inns, Hotels, and Eating Places § 8.

40 Am. Jur. 2d Hotels, Motels, and Restaurants §§ 32, 40, et seq.

Maintenance or regulation by public authorities of tourist or trailer camps, motor courts, or motels. 22 ALR 2d 774.

**50-52-104. County attorney to prosecute violations.** When the department furnishes evidence to the county attorney of a county in this state, the county attorney shall prosecute any person, firm, or corporation violating this chapter or a rule effective under this chapter.

*History:* En. Sec. 217, Ch. 197, L. 1967; amd. Sec. 81, Ch. 349, L. 1974; amd. Sec. 2, Ch. 506, L. 1975; R.C.M. 1947, 69-5606(3).

**Cross References:**

Duties of County Attorney relating to state matters, 7-4-2716.

**Collateral References:**

40 Am. Jur. 2d Hotels, Motels, and Restaurants § 30.

**50-52-105. Violation of chapter a misdemeanor.** (1) A person violating a provision of this chapter or a rule made under it is guilty of a misdemeanor and upon conviction shall be fined an amount not less than \$50 or more than \$100 for the first offense and an amount not less than \$75 or more than \$200 for the second offense, and for the third and subsequent offenses, the person shall be punished by a fine of not less than \$200 and by imprisonment in the county jail for a term not to exceed 90 days.

(2) Fines, except justice's court fines, must be paid to the county treasurer of the county in which the establishment is located. The county treasurer shall send all fines collected to the department of revenue, as provided in 15-1-504, for deposit in the state general fund.

*History:* En. Sec. 218, Ch. 197, L. 1967; amd. Sec. 6, Ch. 383, L. 1973; amd. Sec. 3, Ch. 506, L. 1975; amd. Sec. 15, Ch. 140, L. 1977; R.C.M. 1947, 69-5607; amd. Sec. 4, Ch. 341, L. 1983; amd. Sec. 35, Ch. 557, L. 1987; amd. Sec. 24, Ch. 257, L. 2001.

**Compiler's Comments:**

*2001 Amendment:* Chapter 257 in (2) in second sentence substituted "department of revenue, as provided in 15-1-504" for "state treasurer"; and made minor changes in style. Amendment effective July 1, 2001.

*Applicability:* Section 49, Ch. 257, L. 2001, provided: "[This act] applies to remittances of state money made to the department of revenue for fiscal years beginning after June 30, 2001."

*1987 Amendment:* In (2), after "Fines", inserted "except justice's court fines".

*1983 Amendment:* In (2) substituted "establishment" for "tourist campground or trailer court".

*Statement of Intent:* The statement of intent attached to HB 420 (Ch. 341, L. 1983) read: "A statement of intent is required for House Bill 420 [Ch. 341, L. 1983] because it adds authority for the Department of Health and Environmental Sciences [now Department of Public Health and Human

Services] to adopt rules setting sanitation standards for work camps and youth camps. The law presently allows the department to set standards for trailer courts and tourist campgrounds ensuring a level of sanitation adequate to protect public health. The need for similar uniform state standards for work camps and youth camps has become apparent, largely because such facilities are not uniformly regulated across the state and are subject to local standards ranging from stringent to minimal. Therefore, it is the intent of House Bill 420 [Ch. 341, L. 1983] to give the department authority to set sanitation standards for both work camps and youth camps which ensure adequate facilities exist for proper sewage disposal, require storage and disposal of solid waste in a manner adequate to prevent contamination and spread of disease, ensure that food is handled and food service maintained in a manner sufficient to prevent food-related illness, ensure that water supplies are adequate and uncontaminated, and define general housekeeping practices needed to ensure sanitation."

*Saving Clause:* Section 8, Ch. 341, L. 1983, was a saving clause.

*Severability:* Section 9, Ch. 341, L. 1983, was a severability section.

*Severability Clause:* Section 7, Ch. 383, L. 1973, was a severability clause.

**Cross References:**

Collection and disposition of fines, penalties, forfeitures, and fees, 3-10-601.

**Collateral References:**

Innkeepers *key* 13 through 15.

43A C.J.S. Inns, Hotels, and Eating Places § 11.

40 Am. Jur. 2d Hotels, Motels, and Restaurants § 30.

**50-52-106. Injunction.** The department or a local board of health may petition the district court to enjoin any action in violation of this chapter or of a rule adopted by the department pursuant to this chapter.

*History:* En. Sec. 5, Ch. 341, L. 1983.

**Compiler's Comments:**

*Statement of Intent:* The statement of intent attached to HB 420 (Ch. 341, L. 1983) read: "A statement of intent is required for House Bill 420 [Ch. 341, L. 1983] because it adds authority for the Department of Health and Environmental Sciences [now Department of Public Health and Human Services] to adopt rules setting sanitation standards for work camps and youth camps. The law presently allows the department to set standards for trailer courts and tourist campgrounds ensuring a level of sanitation adequate to protect public health. The need for similar uniform state standards for work camps and youth camps has become apparent, largely because such facilities are not uniformly regulated across the state and are subject to local standards ranging from stringent to minimal. Therefore, it is the intent of House Bill 420 [Ch. 341, L. 1983] to give the department authority to set sanitation standards for both work camps and youth camps which ensure adequate facilities exist for proper sewage disposal, require storage and disposal of solid waste in a manner adequate to prevent contamination and spread of disease, ensure that food is handled and food service maintained in a manner sufficient to prevent food-related illness, ensure that water supplies are adequate and uncontaminated, and define general housekeeping practices needed to ensure sanitation."

*Saving Clause:* Section 8, Ch. 341, L. 1983, was a saving clause.

*Severability:* Section 9, Ch. 341, L. 1983, was a severability section.

**Cross References:**

Injunctions, Title 27, ch. 19.

Local boards of health, Title 50, ch. 2.

**50-52-107. Civil penalties -- injunctions not barred.** (1) An establishment that violates this chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to exceed \$500.

(2) Civil action to impose penalties, as provided under this section, does not bar injunctions to enforce compliance with this chapter or to enforce compliance with a rule adopted by the department pursuant to this chapter.

**History:** En. Sec. 5, Ch. 731, L. 1991.

**Compiler's Comments:**

*1991 Statement of Intent:* The statement of intent attached to Ch. 731, L. 1991, provided: "A statement of intent is required for this bill because it amends 50-52-301 and 50-52-302 to grant the department of health and environmental sciences [now department of public health and human services] authority to adopt rules.

It is intended that the department adopt rules to:

(1) require health officers and sanitarians to make investigations and inspections of campgrounds, trailer courts, work camps, and youth camps and make reports to the department; and

(2) establish minimum program performance standards that must be met in order for the local board of health to receive payments from the local board inspection fund account.

It is intended that minimum performance standards include but not be limited to measures necessary to ensure the accuracy of inspection reports and to allow statewide standardization of inspections and the documentation of work performed.

Also, it is recognized that the exact nature of necessary reporting requirements and performance standards is still in the developmental stages. Therefore, it is intended that these requirements be adopted only after close coordination with local health departments and boards and extensive solicitation of comments prior to adoption of final requirements."

**Cross References:**

Injunctions, Title 27, ch. 19.

Local boards of health, Title 50, ch. 2.

**50-52-108. Costs and expenses -- recovery by department or county.** In a civil action initiated by the department or county under this chapter, the court may, by petition of the department or county, order an establishment that is found in violation of this chapter or rules adopted under this chapter to pay the costs of investigations and any other expenses incurred in enforcing the provisions of this chapter.

**History:** En. Sec. 6, Ch. 731, L. 1991.

**Compiler's Comments:**

*1991 Statement of Intent:* The statement of intent attached to Ch. 731, L. 1991, provided: "A statement of intent is required for this bill because it amends 50-52-301 and 50-52-302 to grant the department of health and environmental sciences [now department of public health and human services] authority to adopt rules.

It is intended that the department adopt rules to:

(1) require health officers and sanitarians to make investigations and inspections of campgrounds, trailer courts, work camps, and youth camps and make reports to the department; and

(2) establish minimum program performance standards that must be met in order for the local board of health to receive payments from the local board inspection fund account.

It is intended that minimum performance standards include but not be limited to measures necessary to ensure the accuracy of inspection reports and to allow statewide standardization of inspections and the documentation of work performed.

Also, it is recognized that the exact nature of necessary reporting requirements and performance standards is still in the developmental stages. Therefore, it is intended that these requirements be adopted only after close coordination with local health departments and boards and extensive solicitation of comments prior to adoption of final requirements."

**Cross References:**

Costs, Title 25, ch. 10.

---

## Part 2

### Licensing

#### Administrative Rules:

ARM 37.111.211 Campground and trailer court licensure.

#### Collateral References:

40 Am. Jur. 2d Hotels, Motels, and Restaurants §§ 27 through 30, 40 through 46.

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

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

**History:** En. Sec. 215, Ch. 197, L. 1967; amd. Sec. 4, Ch. 383, L. 1973; amd. Sec. 1, Ch. 506, L. 1975; R.C.M. 1947, 69-5604(part); amd. Sec. 4, Ch. 200, L. 1979.

#### Cross References:

Licensing of sanitarians, Title 37, ch. 40.

Local health officer defined, 50-2-101.

**50-52-202. License fee -- late fee.** (1) Each application shall be accompanied by a fee of \$40.

(2) The department shall deposit 85% of the fees collected under subsection (1) into the local board inspection fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees collected under subsection (1) into the account provided for in 50-52-210.

(3) In addition to the license fee required under subsection (1), the department shall collect a late fee from any licensee who has failed to submit a license renewal fee prior to the expiration of his current license and who operates an establishment governed by this part in the next licensing year. The late fee is \$25 and must be deposited in the account provided for in 50-52-210.

**History:** En. Sec. 215, Ch. 197, L. 1967; amd. Sec. 4, Ch. 383, L. 1973; amd. Sec. 1, Ch. 506, L. 1975; R.C.M. 1947, 69-5604(part); amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 3, Ch. 336, L. 1983; amd. Sec. 3, Ch. 247, L. 1989; amd. Sec. 1, Ch. 731, L. 1991.

#### Compiler's Comments:

*1991 Amendment:* In (1) raised fee from \$30 to \$40; in (2), after "collected", substituted "under subsection (1) into" for "in the state special revenue fund to the credit of", deleted subsection reference to 50-2-108, and substituted "11.25% of the fees into the general fund, and 3.75% of the fees collected under subsection (1) into the account provided for in 50-52-210" for "and the balance of the fees in the state general fund"; at end of (3) substituted "account provided for in 50-20-210" for "state general fund"; and made minor changes in style.

*1991 Statement of Intent:* The statement of intent attached to Ch. 731, L. 1991, provided: "A statement of intent is required for this bill because it amends 50-52-301 and 50-52-302 to grant the department of health and environmental sciences [now department of public health and human services] authority to adopt rules.

It is intended that the department adopt rules to:

(1) require health officers and sanitarians to make investigations and inspections of campgrounds, trailer courts, work camps, and youth camps and make reports to the department; and

(2) establish minimum program performance standards that must be met in order for the local board of health to receive payments from the local board inspection fund account.

It is intended that minimum performance standards include but not be limited to measures necessary to ensure the accuracy of inspection reports and to allow statewide standardization of inspections and the documentation of work performed.

Also, it is recognized that the exact nature of necessary reporting requirements and performance standards is still in the developmental stages. Therefore, it is intended that these requirements be adopted only after close coordination with local health departments and boards and extensive solicitation of comments prior to adoption of final requirements."

*1989 Amendment:* Inserted (3) requiring collection of a \$25 late fee.

*1983 Amendments:* Chapter 336, in (1), increased fee from \$20 to \$30; in (2), substituted language allocating 85% of the fees to the state special revenue fund and the remainder to the general fund for "Fees collected by the department shall be deposited in the state general fund."

Chapter 281, in (2) in language added by Ch. 336, substituted "state special revenue fund" for "earmarked revenue fund".

**50-52-203. Expiration date of license.** (1) Except as provided in subsection (2), licenses expire on December 31 of the year in which they are issued unless canceled for cause.

(2) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms will be prorated by the department.

*History:* En. Sec. 215, Ch. 197, L. 1967; amd. Sec. 4, Ch. 383, L. 1973; amd. Sec. 1, Ch. 506, L. 1975; R.C.M. 1947, 69-5604(part); amd. Sec. 8, Ch. 350, L. 1997.

**Compiler's Comments:**

*1997 Amendment:* Chapter 350 in (1), at beginning, inserted exception clause and at end inserted "unless canceled for cause"; and inserted (2) pertaining to the issuance of licenses with staggered expiration dates by the Department.

**Administrative Rules:**

ARM 37.111.211 Campground and trailer court licensure.

**50-52-204. Local board to report number of licensees to department.** Before June 1 of each year, the local board of health shall submit to the department a list of the establishments in each jurisdiction which are licensed under this part.

*History:* En. Sec. 215, Ch. 197, L. 1967; amd. Sec. 4, Ch. 383, L. 1973; amd. Sec. 1, Ch. 506, L. 1975; R.C.M. 1947, 69-5604(part).

**Cross References:**

Local boards of health, Title 50, ch. 2.

**50-52-205. Cancellation of license.** The department may cancel a license if it finds, after proper investigation, that the licensee has violated this chapter or a rule effective under this chapter and the licensee has failed or refused to remedy or correct the violation.

*History:* En. Sec. 217, Ch. 197, L. 1967; amd. Sec. 81, Ch. 349, L. 1974; amd. Sec. 2, Ch. 506, L. 1975; R.C.M. 1947, 69-5606(part).

**Administrative Rules:**

ARM 37.111.533 Noncomplying preexisting camps -- correction plan.

**50-52-206. Submission of plan of correction as bar to cancellation.** Submission to the department of an acceptable plan of correction within 10 days after receipt from the department of written notice of violation and execution of an acceptable plan within the time prescribed in the written notice of approval of the plan by the department shall be a bar to prosecution for violation.

*History:* En. Sec. 217, Ch. 197, L. 1967; amd. Sec. 81, Ch. 349, L. 1974; amd. Sec. 2, Ch. 506, L. 1975; R.C.M. 1947, 69-5606(part).

**50-52-207. Notice and hearing required.** A license may not be denied or canceled by the department without delivery to the applicant or licensee of a written statement of the grounds for denial or cancellation or the charge involved and an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or canceled. In this case, the licensee must make a written request to the department for a hearing within 10 days after notice of the grounds or charges has been received.

**History:** En. Sec. 217, Ch. 197, L. 1967; amd. Sec. 81, Ch. 349, L. 1974; amd. Sec. 2, Ch. 506, L. 1975; R.C.M. 1947, 69-5606(2).

**Cross References:**

Contested case defined -- applicability of Montana Administrative Procedure Act, 2-4-102.

**50-52-208. Notification of and validation by local health officer.** (1) A license issued by the department under this chapter is not valid until signed by the local health officer in the county where the establishment is located.

(2) The local health officer shall, within 15 days after the department has notified the local health officer of its decision to issue a license under this chapter, make a final decision on whether the license will be validated.

(3) Failure of the local health officer to validate the license within 15 days after its receipt is a refusal.

**History:** En. Sec. 5, Ch. 200, L. 1979.

**Cross References:**

Local health officer defined, 50-2-101.

**50-52-209. Refusal by local health officer -- appeal to board.** (1) The local health officer may only refuse to validate a license issued under this chapter, upon a finding that the requirements of this chapter and any rules implementing it are not satisfied. If the local health officer refuses to validate the license, he shall notify the applicant and the department in writing stating his reasons.

(2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer's decision.

(3) The hearing before the local board of health shall be held pursuant to the contested case provisions of the Montana Administrative Procedure Act.

**History:** En. Sec. 6, Ch. 200, L. 1979.

**Cross References:**

Contested cases -- Montana Administrative Procedure Act, Title 2, ch. 4, part 6.

Local health officer defined, 50-2-101.

**50-52-210. Special revenue account.** There is an account in the state special revenue fund. Money in the account is allocated to the department to be used to administer the provisions of this chapter and the rules adopted under it.

**History:** En. Sec. 2, Ch. 731, L. 1991.

**Compiler's Comments:**

*1991 Statement of Intent:* The statement of intent attached to Ch. 731, L. 1991, provided: "A statement of intent is required for this bill because it amends 50-52-301 and 50-52-302 to grant the department of health and environmental sciences [now department of public health and human services] authority to adopt rules.

It is intended that the department adopt rules to:

(1) require health officers and sanitarians to make investigations and inspections of campgrounds, trailer courts, work camps, and youth camps and make reports to the department; and

(2) establish minimum program performance standards that must be met in order for the local board of health to receive payments from the local board inspection fund account.

It is intended that minimum performance standards include but not be limited to measures necessary to ensure the accuracy of inspection reports and to allow statewide standardization of inspections and the

documentation of work performed.

Also, it is recognized that the exact nature of necessary reporting requirements and performance standards is still in the developmental stages. Therefore, it is intended that these requirements be adopted only after close coordination with local health departments and boards and extensive solicitation of comments prior to adoption of final requirements."

**Cross References:**

State fund structure, 17-2-102.

**50-52-211. Right to renewal.** (1) The department shall renew licenses as a matter of right, unless conditions exist that are grounds for cancellation or denial of a license.

(2) Renewal may be obtained annually by paying the required annual license fee.

**History:** En. Sec. 9, Ch. 350, L. 1997.

---

## Part 3

### Inspections

**Cross References:**

Sanitation in subdivisions, Title 76, ch. 4, part 1.

**Law Review Articles:**

The Constitutionality of Civil Inspections, 21 Mont. L. Rev. 195 (Spring 1960).

Administrative Search and Seizure Whither the Warrant?, Kress & Iannelli, 31 Vill. L. Rev. 705 (1986).

Entries and Searches in the Administrative Setting, Bloom, 53 Geo. Wash. L. Rev. 230 (1985).

Administrative Agency Searches Since *Marshall v. Barlow's, Inc.*: Probable Cause Requirements for Nonroutine Administrative Searches, O'Brian, 70 Geo. L.J. 1183 (1982).

*Marshall v. Barlow's, Inc.* (98 Sup. Ct. 1816): Administrative Inspections and the Fourth Amendment, 9 Environ. L. 149 (Fall 1978).

*Marshall v. Barlow's, Inc.* (98 Sup. Ct. 1816) and the Warrant Requirement for OSHA "Spot Check" Inspections, 15 Id. L. Rev. 187 (Fall 1978).

**Collateral References:**

Propriety of state or local government health officer's warrantless search--post-Camara cases. 53 ALR 4th 1168.

**50-52-301. Health officers and sanitarians to make investigations and inspections.** State and local health officers, sanitarians-in-training, and registered sanitarians shall make investigations and inspections of establishments and make reports to the department as required under rules adopted by the department.

**History:** En. Sec. 216, Ch. 197, L. 1967; amd. Sec. 5, Ch. 383, L. 1973; R.C.M. 1947, 69-5605; amd. Sec. 6, Ch. 341, L. 1983; amd. Sec. 3, Ch. 731, L. 1991.

**Compiler's Comments:**

*1991 Amendment:* At beginning of section substituted "State and" for "The department or", after "officers" inserted "sanitarians-in-training", before "sanitarians" inserted "registered", after "shall" substituted "make investigations and inspections of establishments and make reports to the department as required under rules adopted by the department" for "inspect establishments during reasonable hours as necessary"; and made minor changes in style.

*1991 Statement of Intent:* The statement of intent attached to Ch. 731, L. 1991, provided: "A statement of intent is required for this bill because it amends 50-52-301 and 50-52-302 to grant the department of health and environmental sciences [now department of public health and human services] authority to adopt rules."

It is intended that the department adopt rules to:

- (1) require health officers and sanitarians to make investigations and inspections of campgrounds, trailer courts, work camps, and youth camps and make reports to the department; and
- (2) establish minimum program performance standards that must be met in order for the local board of health to receive payments from the local board inspection fund account.

It is intended that minimum performance standards include but not be limited to measures necessary to ensure the accuracy of inspection reports and to allow statewide standardization of inspections and the documentation of work performed.

Also, it is recognized that the exact nature of necessary reporting requirements and performance standards is still in the developmental stages. Therefore, it is intended that these requirements be adopted only after close coordination with local health departments and boards and extensive solicitation of comments prior to adoption of final requirements."

*1983 Amendment:* Substituted "establishments" for "tourist campgrounds and trailer courts"; deleted former (2), which read: "supervise the inspection of tourist campgrounds or trailer courts by local health officers, sanitarians, or other authorized persons as necessary".

*1983 Statement of Intent:* The statement of intent attached to HB 420 (Ch. 341, L. 1983) read: "A statement of intent is required for House Bill 420 [Ch. 341, L. 1983] because it adds authority for the Department of Health and Environmental Sciences [now Department of Public Health and Human Services] to adopt rules setting sanitation standards for work camps and youth camps. The law presently allows the department to set standards for trailer courts and tourist campgrounds ensuring a level of sanitation adequate to protect public health. The need for similar uniform state standards for work camps and youth camps has become apparent, largely because such facilities are not uniformly regulated across the state and are subject to local standards ranging from stringent to minimal. Therefore, it is the intent of House Bill 420 [Ch. 341, L. 1983] to give the department authority to set sanitation standards for both work camps and youth camps which ensure adequate facilities exist for proper sewage disposal, require storage and disposal of solid waste in a manner adequate to prevent contamination and spread of disease, ensure that food is handled and food service maintained in a manner sufficient to prevent food-related illness, ensure that water supplies are adequate and uncontaminated, and define general housekeeping practices needed to ensure sanitation."

*Saving Clause:* Section 8, Ch. 341, L. 1983, was a saving clause.

*Severability:* Section 9, Ch. 341, L. 1983, was a severability section.

**Cross References:**

- Right of privacy, Art. II, sec. 10, Mont. Const.
- Searches and seizures, Art. II, sec. 11, Mont. Const.
- Licensing of sanitarians, Title 37, ch. 40.
- Sanitarian-in-training defined, 37-40-101.
- Local health officer defined, 50-2-101.

**Administrative Rules:**

- ARM 37.111.212 Campground and trailer court inspection.

**Law Review Articles:**

- The Constitutionality of Civil Inspections, 21 Mont. L. Rev. 195 (Spring 1960).

**Collateral References:**

- 40 Am. Jur. 2d Hotels, Motels, and Restaurants § 32.

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

(a) there is a functioning local board of health; and  
(b) the local board of health, local health officers, sanitarians-in-training, and registered sanitarians:  
(i) assist in inspections and enforcement of the provisions of this chapter and the rules adopted under it; and  
(ii) meet minimum program performance standards as established under rules adopted by the department.

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

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

**History:** En. Sec. 215, Ch. 197, L. 1967; amd. Sec. 4, Ch. 383, L. 1973; amd. Sec. 1, Ch. 506, L. 1975; R.C.M. 1947, 69-5604(part); amd. Sec. 7, Ch. 336, L. 1983; amd. Sec. 4, Ch. 731, L. 1991.

#### **Compiler's Comments:**

*1991 Amendment:* Near middle of (1) deleted subsection reference to 50-2-108 and after "chapter" inserted "and enforcing the provisions of this chapter"; in (1)(b) inserted "sanitarians-in-training" and before "sanitarians" inserted "registered"; in (1)(b)(i), before "enforcement", inserted "inspections and"; inserted (1)(b)(ii) providing that local board meet minimum program performance standards established under rules adopted by Department; in (2), after "health", inserted "pursuant to subsection (1)" and at end, after "and", substituted "must be used to supplement, but not supplant, other funds received by the local board of health that in the absence of funding received under subsection (1) would be made available for the same purpose" for "shall be in addition to the funds appropriated under 50-2-108 through 50-2-114"; inserted (3) authorizing funds in account not paid to local health board to be used by Department within jurisdiction not qualifying to receive payments from fund to enforce chapter and adopted rules; and made minor changes in style.

*1991 Statement of Intent:* The statement of intent attached to Ch. 731, L. 1991, provided: "A statement of intent is required for this bill because it amends 50-52-301 and 50-52-302 to grant the department of health and environmental sciences [now department of public health and human services] authority to adopt rules.

It is intended that the department adopt rules to:

(1) require health officers and sanitarians to make investigations and inspections of campgrounds, trailer courts, work camps, and youth camps and make reports to the department; and

(2) establish minimum program performance standards that must be met in order for the local board of health to receive payments from the local board inspection fund account.

It is intended that minimum performance standards include but not be limited to measures necessary to ensure the accuracy of inspection reports and to allow statewide standardization of inspections and the documentation of work performed.

Also, it is recognized that the exact nature of necessary reporting requirements and performance standards is still in the developmental stages. Therefore, it is intended that these requirements be adopted only after close coordination with local health departments and boards and extensive solicitation of comments prior to adoption of final requirements."

*1983 Amendment:* In (1), substituted "the local board inspection fund created by 50-2-108(2)" for "any general fund appropriation to the department".

*Commissioner Correction:* The word "account" in (1) was added by the Code Commissioner to use the correct name of the fund account created by 50-2-108(2).

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

**History: En. Sec. 7, Ch. 731, L. 1991.**