

**PLU PRACTICE ACT**

\*\*\* BILL NO. \*\*\*

INTRODUCED BY \*\*\*\*\*

BY REQUEST OF THE (AGENCY OR DEPARTMENT)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PLUMBING AND THE BOARD OF PLUMBING; PROVIDING DEFINITIONS; REVISING EXEMPTIONS; REVISING QUALIFICATIONS FOR A JOURNEYMAN PLUMBER LICENSE; CLARIFYING QUALIFICATIONS FOR A MASTER PLUMBER LICENSE; REVISING PROVISIONS RELATED TO PRODUCING PROOF OF LICENSURE; REVISING PROVISIONS RELATED TO MEDICAL GAS PIPING ENDORSEMENTS; REPEALING REDUNDANT PROVISIONS; AMENDING SECTIONS 37-69-101, 37-69-102, 37-69-202, 37-69-301, 37-69-304, 37-69-305, 37-69-319, 37-69-320, 37-69-323, 37-69-401, 37-69-403, AND 50-60-506, MCA; AND REPEALING SECTIONS 37-69-103, 37-69-201, 37-69-203, 37-69-303, 37-69-306, 37-69-308, 37-69-310, 37-69-311, AND 37-69-402, MCA."

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

**Section 1.** Section 37-69-101, MCA, is amended to read:

**"37-69-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of plumbers provided for in 2-15-1765.
- (2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.
- (3) "Drainage system" means all the piping inside the walls of a building that conveys sewage or other liquid wastes outside the building to the building sewer but that does not extend more than 2 feet outside the building way.

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(4) "Field of plumbing" means the business, trade, or work having to do with the installation, removal, alteration, or repair of plumbing and drainage systems or parts of plumbing and drainage systems.

(5) "Journeyman plumber" means a person who is authorized to make installation of all sanitary plumbing and potable water supply piping and appliances connected to the plumbing and piping.

(6) "Legally obtained practical experience" means experience obtained in accordance with the laws and rules of the jurisdiction in which an applicant obtained the experience or within the applicable laws pertaining to the board.

~~(6)~~(7) "Master plumber" means a person who is authorized by this chapter to plan, estimate, bid, contract for, and supervise plumbing work and who may do the work of a journeyman plumber.

~~(7)~~(8) (a) "Plumbing system" means all potable water supply and distribution pipes, plumbing fixtures and traps, drainage and vent pipes, and building drains, including their respective joints and connections, devices, receptacles, and appurtenances within the property lines of any premises, up to 20 feet beyond the building foundation line, and includes potable water piping, water heaters, and vents for the premises.

(b) The term does not include water services installed and maintained by water districts or water user associations in which water service is installed by any qualified person appointed or hired by the administrative authority of the water system.

~~(8)~~(9) "Public sewer system" means any common sewer carrying liquid wastes from two or more dwellings or any other facility that serves the public.

~~(9)~~(10) "Public water supply" means any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves 10 or more families or 25 or more persons on a regular and continuous basis."

**Section 2.** Section 37-69-102 , MCA, is amended to read:

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**"37-69-102. Permanent and temporary exceptions.** (1) Licensure is not required in the following instances of plumbing installation:

(a) when an owner of a single-family residence used exclusively for the owner's personal use installs all sanitary plumbing and potable water supply piping or when a mobile home dealer or a manufactured housing dealer connects a mobile home or a manufactured house to existing sanitary and potable water supply facilities as part of delivering and setting up a mobile home for a purchaser;

(b) in any mine, mill, smelter, refinery, or railroad;

(c) in a farm or ranch not connected to public water supply and sewage disposal systems.

For the purposes of this subsection (1)(c), a "farm or ranch" means the same as in 39-3-402.

(d) in cities, towns, water districts, and water user associations extending, repairing, or replacing their own water and sewer mains;

~~(e) installation of water conditioner services in private dwellings;~~

~~(f)(e)~~ minor work by employees or agents of an appliance dealer incidental to the installation of an appliance purchased from the dealer;

~~(g)(f)~~ installation of a water meter by a qualified person appointed by the administrative authority of the water system;

~~(h)(g)~~ in the case of a private water supply, installation of the pump, waterline, or pressure tank, regardless of whether the pump, waterline, or pressure tank is located inside or outside the structure being served;

~~(i)(h)~~ in the case of an apprentice, as that term is defined in 39-6-101, who is working under the supervision of a licensed plumber; and

~~(j)(i)~~ in the case of a student who is enrolled in a plumbing training program offered by an accredited college or university recognized by the board of regents if the student is undertaking class assignments in a classroom or a hands-on laboratory setting. This subsection (1)~~(j)(i)~~ does not authorize a student to engage in any plumbing work that will be incorporated or used in an occupied structure or connected to a plumbing system where work must be performed by a licensed plumber.

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(2) This chapter may not be construed to apply to or to affect plumbing installations in any mines, mills, smelters, refineries, public utilities, railroads, or plumbing installations on farms or ranches not connected to public water supply or sewage disposal systems.

(3) If a licensed person is not available, the council or commission of a county, city, or town or the board of directors or managers of a water or sewer district or water utility may, by ordinance, rule, or resolution, authorize an unlicensed person to perform plumbing work on a temporary basis if:

(a) the council, commission, or board of directors has provided reasonable notice by certified letter to the board; and

(b) the board has approved the temporary authorization or has failed to respond to the certified letter required under subsection (3)(a) within 30 days of the letter's postmark.

(4) The council, commission, board of directors, or board shall withdraw the temporary authorization provided for in subsection (3) when a licensed person is reasonably available."

**Section 3.** Section 37-69-202 , MCA, is amended to read:

**"37-69-202. Rulemaking power** ~~---records.~~ (1) The board may adopt rules necessary to carry out this chapter.

~~(2) The board shall adopt rules for the transaction of its business, and the department shall keep a record of the board's official actions."~~

**Section 4.** Section 37-69-301 , MCA, is amended to read:

**"37-69-301. License required.** (1) Except as provided in 37-69-102, a person working at the field of plumbing in this state, either as a master plumber or as a journeyman plumber, shall first obtain a license as provided in Title 37, chapter 69, part 3.

(2) A person who receives a license under the provisions of this chapter shall carry the license, or proof of licensure, at all times while working on a job site and performing work that requires a license. Acceptable proof of licensure must be determined by the board and made known by the department to each licensee when a license is issued.

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(3) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter."

**Section 5.** Section 37-69-304 , MCA, is amended to read:

**"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority.** (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5-4 years of legally obtained practical experience in the field of plumbing. This experience requirement may be fulfilled by:

~~(i) working 5 years in a major phase of the plumbing business, verified by time or pay records; or~~

~~(ii)(i) completing an approved apprenticeship program ~~meeting the standards set by the department or the United States department of labor, bureau of apprenticeship of at least 8,000 hours under Title 39, chapter 6, or a substantially equivalent program-~~; or~~

~~(ii) at least 4 years and 8,000 hours of lawful, documented practical experience in the installation, removal, alteration, or repair of plumbing or drainage systems, verified by time records, pay records, employer attestations, permit records, project records, apprenticeship records, or other documentation required by rule; and Credit toward this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.~~

(b) satisfactory completion of a written examination prescribed by the board and conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and, if required by the board, a practical demonstration establishing competence in the special skills required in the field of plumbing.

~~(c) The board may by rule determine the amount of related instruction, accredited trade school, lawful apprenticeship experience that was not part of a completed apprenticeship, and~~

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out-of-state experience obtained in compliance with the laws of the jurisdiction where the work was performed.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board. Performing work in the employment of a licensed master plumber means the licensed master plumber shall observe the journeyman plumber's work at different times over the course of employment and for different levels of plumbing work."

**Section 6.** Section 37-69-305 , MCA, is amended to read:

**"37-69-305. Qualifications of applicants for master plumber's license -- restriction on authority.** (1) The following requirements must be met by an applicant for a master plumber's license:

(a) evidence of 4 years and at least 6000 hours of experience as a licensed journeyman plumber or equivalent as defined in rule in the field of plumbing, verified by time or pay records of actual plumbing experience;

~~(b) evidence of 3 years of experience, which may run concurrently with the requirement in subsection (1)(a):~~

~~(i) working with a licensed master plumber; or~~

~~(ii) in a supervisory capacity in the field of plumbing; and~~

~~(e)(b)~~ satisfactory completion of an examination prescribed by the board for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing.

~~(2) For purposes of subsection (1), 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.~~

~~(3)(2)~~ A master plumber may not allow the master plumber's license to be used by any person or firm, corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license."

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**Section 7.** Section 37-69-319 , MCA, is amended to read:

**"37-69-319. Proof of license -- citation and fine.** (1) ~~An employee of a private or public employment agency or labor union, a~~ building code compliance inspector ~~in compliance with 50-60-302~~, an employee of the department, a person who is professionally responsible for ~~a the~~ job site, or a plumber licensed under ~~Title 37, chapter 69 this chapter who is working on the same job site~~, has the right to ask a person working at a job site doing work that requires a plumber's license to provide proof of licensure. If the person performing the work is unable to furnish proof of licensure, the requesting person may report that fact to the board or the department.

(2) An employee of the department may issue a citation to and collect a fine, ~~as provided in 37-69-310~~, from a person at a job site where the person is performing plumbing work if the person fails to display a plumber's license or proof of licensure at the request of the department inspector."

**Section 8.** Section 37-69-320 , MCA, is amended to read:

**"37-69-320. License and endorsement discipline.** (1) ~~The~~ In addition to the provisions under 37-1-316, the board may revoke, suspend, restrict, censure, or apply any other disciplinary treatment contemplated by 37-1-136 to any occupational licensee or endorsee under this chapter for any one or more of the following causes:

(a) performance of plumbing work in the field of plumbing that is below the standards established by the Uniform Plumbing Code;

(b) inadequate supervision that causes or allows plumbing work in the field of plumbing that is below the standards established by the Uniform Plumbing Code; or

~~(c) material deceit in procuring, attempting to procure, or aiding and abetting the procurement of an occupational license or endorsement to practice in the field of plumbing;~~

~~(d) unfitness to provide services in the field of plumbing by reason of negligence or addiction to the use of habit-forming drugs;~~

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~~(e) physical or mental incompetence that impairs the licensee's or endorsee's ability to deliver adequate service in the field of plumbing;~~

~~(f)(c) willful or repeated violation of this chapter or rules adopted under this chapter or willful or repeated violation of Title 50, chapter 60, part 5, or rules adopted under that part; or~~

~~(g) unprofessional practice-related conduct as defined by rules adopted by the board.~~

(2) Any licensee or endorsee disciplinary action under the jurisdiction of the board must be conducted as a contested case under the provisions of the Montana Administrative Procedure Act."

**Section 9.** Section 37-69-323 , MCA, is amended to read:

**"37-69-323. Restrictions on and responsibility for employees of master plumber.** (1) A licensed master plumber may employ only apprentice plumbers registered with the state department of labor and industry and only journeyman plumbers who are licensed by the state of Montana. A master plumber is responsible for ensuring that all work performed by the journeyman plumber or apprentice employed by the licensed master plumber ~~is in compliance~~ complies with the state plumbing code.

(2) ~~The A~~ licensed master plumber may be charged with unprofessional conduct under 37-1-316 ~~and held liable for false swearing, as provided in 45-7-202,~~ if the licensed master plumber provides false information to the department related to the experience or skill of a journeyman plumber or apprentice."

**Section 10.** Section 37-69-401 , MCA, is amended to read:

**"37-69-401. Medical gas piping installation ~~endorsement--~~ registration.** (1) An individual may not install pipe used solely to transport gases used for medical purposes unless the individual holds a valid medical gas piping installation registration. ~~A medical gas piping installation endorsement entitles the holder to install pipe used solely for transporting gases used for medical purposes.~~

~~(2) To be eligible for endorsement under this section, a person must meet all requirements for endorsements established by the board by rule.~~

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~~(3)~~(2) A person with a valid medical gas piping installation endorsement from another state may install medical gas piping in this state.

~~(4)~~(3) The board shall by rule establish the requirements for obtaining a medical gas piping installation ~~endorsement~~registration.

~~(4)~~ A violation of this section is punishable pursuant to 37-1-109."

**Section 11.** Section 37-69-403 , MCA, is amended to read:

**"37-69-403. Proof of ~~endorsement~~registration.** (1) A state or local government plumbing code compliance inspector shall, as part of any inspection, request proof of medical gas piping installation ~~endorsement~~registration from any person who is required to hold ~~an~~ ~~endorsement~~registration under ~~37-69-402~~37-69-401 or who, in the inspector's judgment, appears to be involved with onsite medical gas piping activity. The inspector shall report any instance of ~~endorsement~~registration violation to ~~the inspector's employing agency, and the employing agency shall report the violation to~~ the board.

(2) ~~An employee of a private or public employment agency or labor union, a~~ A person who is professionally responsible for ~~a~~the job site, or a person who holds a medical gas piping installation ~~endorsement~~registration under ~~Title 37, chapter 69~~this chapter, has the right to ask a person doing work on the job site that requires ~~an endorsement~~a registration to provide proof of ~~endorsement~~registration. If the person performing the work is unable to furnish proof of endorsement, the requesting person may report that fact to the board or the department."

**Section 12.** Section 50-60-506 , MCA, is amended to read:

**"50-60-506. Exceptions to permit requirement.** (1) A permit is not required for any minor replacement or repair work, the performance of which does not have a significant potential for creating a condition hazardous to public health and safety.

(2) A permit is not required where the installation is exempt under the provisions of 37-69-102 or 50-60-503.

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(3) A state permit is not required whenever the installation occurs in an area governed by a county, city, or town and where there is in effect a county, city, or town building code that covers plumbing installations and that provides inspection procedures.

(4) (a) This part does not prohibit the owner of residential property from making an installation for ~~all~~ sanitary plumbing and potable water supply piping not directly connected to a public water or sewer system without a permit if the owner personally does the work.

(b) An owner of residential property under subsection (4)(a) must obtain a permit from the department if the installation for sanitary plumbing and potable water supply piping is directly connected to a public water or sewer system.

(5) The provisions of this part do not apply to regularly employed maintenance personnel doing maintenance work on the business premises of their employer unless the work is subject to the permit provisions of this part."

**NEW SECTION. Section 13. {standard} Repealer.** The following sections of the Montana Code Annotated are repealed:

- 37-69-103. No penalty for hiring unlicensed plumber.
- 37-69-201. Presiding officer.
- 37-69-203. Compensation of board members -- expenses.
- 37-69-303. Application -- contents -- requirements.
- 37-69-306. Examination -- issuance of license.
- 37-69-308. Deposit of fees and fines.
- 37-69-310. Citation and fine for failure to display license.
- 37-69-311. License of retirement status.
- 37-69-402. Requirements for installation of medical gas piping.

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