

PRIVATE SECURITY AND  
INVESTIGATORS BOARD LAWS  
AS OF THE 2019 LEGISLATIVE SESSION

TITLE 37, CHAPTER 60  
PRIVATE INVESTIGATORS, PRIVATE SECURITY  
AND FIRE ENTITIES, AND PROCESS SERVERS

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## CHAPTER 60 PRIVATE INVESTIGATORS, PRIVATE SECURITY AND FIRE ENTITIES, AND PROCESS SERVERS

### Chapter Compiler's Comments

*Preamble:* The preamble to Ch. 63, L. 1987, which amended numerous sections of this chapter and repealed 37-60-305 and 37-60-306, provided: "WHEREAS, it is the intent of this bill to provide for effective enforcement of licensure laws by removing certain exemptions, to clarify violations, and to provide the licensing board with the means to impose penalties or cause prosecution for violations of licensure laws."

### Chapter Cross-References

Service of process and other papers, Title 25, ch. 3.  
Weapons, Title 45, ch. 8, part 3.  
Search and seizure, Title 46, ch. 5.  
Arrest, Title 46, ch. 6.

### Chapter Administrative Rules

Title 24, chapter 182, ARM Board of Private Security.

### Chapter Law Review Articles

Liability of an Attorney or Spouse for Torts Committed by a Private Detective, Morgan, 11 Divorce Litigation 247 (1999).

The Conducting of Private Investigations, Arkin, 218 N.Y.L.J. 3 (1997).

How to Choose and Use Private Investigators, Cook, 37 Prac. Law. 29(8) (1991).

Choosing and Using an Investigator, Giller, 15 Litigation 35(4) (1989).

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## Part 1 General

### Part Compiler's Comments

*Application of Act to Existing Businesses:* Section 32, Ch. 550, L. 1983, provided: "A person engaged in the business of a contract security company, a proprietary security organization, or a private investigator within this state on October 1, 1983, shall within 6 months of that date apply to the board for a license to operate such business. Any person filing a timely application for a license may continue to engage in business pending a final determination upon the application by the board."

**37-60-101. Definitions.** As used in this chapter, the following definitions apply:

(1) "Alarm response runner" means an individual employed by an electronic security company, a contract security company, or a proprietary security organization to respond to security alarm system signals.

(2) "Armed" means an individual who at any time wears, carries, or possesses a firearm in the performance of professional duties.

(3) "Armed carrier service" means any person or security company who transports or offers to transport under armed private security guard from one place to another any currency, documents, papers, maps, stocks, bonds, checks, or other items of value that require expeditious delivery.

(4) "Armed private investigator" means a private investigator who at any time wears, carries, or possesses a firearm in the performance of the individual's duties.

(5) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a security guard, armored car service guard, or carrier service guard and who at any time wears or carries a firearm in the performance of the individual's duties.

(6) "Armored car service" means any person or security company who transports or offers to transport under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.

(7) "Board" means the board of private security provided for in 2-15-1781.

(8) "Branch office" means any office of a licensee within the state, other than its principal place of business within the state.

(9) "Contract security company" means any person who undertakes to provide a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a contractual basis to another person who exercises no direction and control over the performance of the details of the services rendered.

(10) "Department" means the department of labor and industry provided for in 2-15-1701.

(11) (a) "Electronic security company" means a person who sells, installs, services, or maintains a security alarm system and who undertakes to hire, employ, and provide alarm response runners and security alarm installers on a contractual basis to another person who does not exercise direction and control over the performance of the services rendered.

(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed-circuit television cameras and battery-operated door devices.

(12) "Firearms course" means the course approved by the board and conducted by a firearms instructor.

(13) "Firearms instructor" means an individual who has been approved by the board to instruct firearms courses in the use of weapons.

(14) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes against the United States or any state or territory of the United States.

(15) "Licensee" means a person licensed under this chapter.

(16) "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law offices, governmental agencies, or other entities or who may be authorized by administrative, statutory, or court authority to perform this work.

(17) "Person" means an individual, firm, company, association, organization, partnership, or corporation.

(18) "Private investigator" means a person other than an insurance adjuster who for any consideration makes or agrees to make any investigation with reference to:

(a) crimes against the United States or any state or territory of the United States;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, location, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property;

or

(e) gathering evidence to be used before any court, board, officer, or investigating committee.

(19) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property or the direction of the movements of the public in public areas.

(20) "Process server" means a person described in 25-1-1101(1).

(21) "Proprietary security organization" means any person who employs a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis solely for the purposes of that person and exerts direction and control over the performance of the details of the service rendered.

(22) "Resident manager" means the person appointed to exercise direct supervision, control, charge, management, or operation of each office located in this state where the business of the licensee is conducted.

(23) (a) "Security alarm installer" means an individual who sells, installs, services, or maintains security alarm systems to detect and signal unauthorized intrusion, movement, break-in, or criminal acts and is employed by an electronic security company.

(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed-circuit television cameras and battery-operated door devices.

(24) (a) "Security alarm system" means an assembly of equipment and devices or a single device or a portion of a system intended to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a location.

(b) The term does not include systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a location.

(25) "Security company" means an electronic security company, a proprietary security organization, or a contract security company.

(26) "Street patrol service" means a person providing patrols by means of foot, vehicle, or other method of transportation using public streets, thoroughfares, or property in the performance of the person's duties and responsibilities.

(27) "Unarmed private investigator" means a private investigator who does not wear, carry, or possess a firearm in the performance of the individual's duties.

(28) "Unarmed private security guard" means an individual who is employed by a contract security company or a proprietary security organization, whose duty or any portion of whose duty is that of a private security guard, armored car service guard, or alarm response runner, and who does not wear, carry, or possess a firearm in the performance of those duties.

**History:** En. 66-3301 by Sec. 1, Ch. 234, L. 1974; R.C.M. 1947, 66-3301; amd. Sec. 15, Ch. 274, L. 1981; amd. Sec. 2, Ch. 550, L. 1983; amd. Sec. 1, Ch. 647, L. 1985; amd. Sec. 1, Ch. 63, L. 1987; amd. Sec. 50, Ch. 83, L. 1989; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1, Ch. 332, L. 1989; amd. Sec. 1, Ch. 47, L. 1991; amd. Sec. 147, Ch. 483, L. 2001; amd. Sec. 12, Ch. 405, L. 2007; amd. Sec. 28, Ch. 502, L. 2007; amd. Sec. 1, Ch. 194, L. 2009; amd. Sec. 17, Ch. 100, L. 2011.

### **Compiler's Comments**

*2011 Amendment:* Chapter 100 in definition of electronic security company in (a) near beginning inserted "sells"; in definition of resident manager near middle after "operation of each" deleted "branch"; and in definition of security alarm installer in (a) inserted "sells". Amendment effective October 1, 2011.

*2009 Amendment:* Chapter 194 deleted former definition of fire investigator that read: "'Fire investigator" means a person other than an individual identified in subsection (12)(b) who for any consideration:

(i) makes or agrees to make an investigation with reference to:

(A) a fire to identify evidence and determine the cause of the fire; or

(B) accidents involving suspected negligence or arson for criminal or civil action;

(ii) testifies as an expert witness for investigations identified under this subsection (12); or

(iii) cooperates with law enforcement agencies in conducting fire investigations and collecting evidence relating to fires.

(b) The term does not mean an insurance adjuster, an individual designated as the state fire marshal under 2-15-2005, or a member of:

(i) a fire department as described in 7-3-1345;

(ii) law enforcement; or

(iii) an entity organized under Title 7, chapter 33"; in definition of private investigator in (d) after "responsibility for" inserted "fires"; and made minor changes in style. Amendment effective October 1, 2009.

*2007 Amendments — Composite Section:* Chapter 405 inserted definition of process server; and made minor changes in style. Amendment effective July 1, 2007.

Chapter 502 inserted definitions of armed, electronic security company, fire investigator, firearms course, firearms instructor, security alarm installer, and security company; deleted definition of qualifying agent that read: "'Qualifying agent" means, in the case of a corporation, a corporate employee employed in a management capacity or, in the case of a partnership, a general or unlimited partner meeting the qualifications set forth in this chapter for the operation of a contract security company, proprietary security

organization, or private investigator, whichever is applicable"; in definition of alarm response runner after "employed by" inserted "an electronic security company"; in definition of armed carrier service near beginning after "person" inserted "or security company"; in definition of armed private investigator after "possesses" deleted "or has access to"; in definition of armed private security guard near middle after "carrier service guard" deleted "or alarm response runner"; in definition of armored car service near beginning after "person" inserted "or security company"; in definition of board after "security" deleted "patrol officers and investigators"; in definition of contract security company near beginning after "who" deleted "installs or maintains a security alarm system"; in definition of insurance adjuster near end after "crimes" deleted "or wrongs committed or threatened"; in definition of private investigator in (a) after "crimes" deleted "or wrongs done or threatened", in (d) after "for" deleted "fires", and in (e) at beginning substituted "gathering" for "securing"; in definition of security alarm system in (a) near middle after "device" substituted "or a portion of a system intended" for "such as a solid state unit that plugs directly into a 110-volt AC line, designed" and at end after "at a" substituted "location" for "protected premises and to which signals police, private security guards, or alarm response runners are expected to respond" and in (b) near beginning after "include" deleted "alarm systems and alarm" and at end substituted "location" for "premises"; in definition of street patrol service substituted present definition for former definition that read: "'Street patrol service" means any contract security company or proprietary security organization that uses foot patrols, motor vehicles, or any other means of transportation to maintain public order or detect criminal activities in public areas or thoroughfares"; in definition of unarmed private investigator after "possess" deleted "or have access to"; in definition of unarmed private security guard near end after "carry" inserted "or possess"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*2001 Amendment:* Chapter 483 in definition of department substituted reference to department of labor and industry for reference to department of commerce and substituted "2-15-1701" for "2-15-1801"; and made minor changes in style. Amendment effective July 1, 2001.

*1991 Amendment:* In definition of paralegal substituted "one or more lawyers, law offices" for "a lawyer, law office", "agencies" for "agency", and "entities" for "entity". Amendment effective February 24, 1991.

*Preamble:* The preamble attached to Ch. 47, L. 1991, provided: "WHEREAS, section 2, Chapter 332, Laws of 1989, exempted "a legal intern, paralegal, or legal assistant employed by a licensed attorney" from licensure as a private investigator; and

WHEREAS, the Board of Private Security Patrol Officers and Investigators, in Rule 8.50.423, Administrative Rules of Montana, interpreted the license exemption for paralegals to apply to "a paralegal employed by only one law firm" and required that paralegals "employed by more than one firm at the same time" be licensed as private investigators; and

WHEREAS, the Legislature intended the 1989 law, by use of the singular phrase "employed by a licensed attorney", to include the plural, in conformity with the basic rule of statutory construction set out in section 1-2-105, MCA, and now finds it necessary to clarify the licensing exemption with regard to paralegals."

*1989 Amendments:* Chapter 83 substituted "resident manager" for "resident agent" as defined term.

Chapter 217 in definition of Board changed "patrolmen" to "patrol officers".

Chapter 332 inserted definition of paralegal or legal assistant.

*1987 Amendment:* In (4), near middle, substituted reference to "duty or any portion of whose duty" for "principal duty" and near end deleted "possesses, or has access to" before "a firearm"; in (14), near beginning, inserted "or assigned duties" and near middle inserted "or any portion of whose duties"; inserted definition of resident agent; in (21) substituted reference to "duty or any portion of whose duty" for "principal duty" and near end deleted "possesses, or have access to" before "a firearm"; and made minor changes in phraseology.

*1985 Amendment:* At end of (1) deleted last sentence that read: "A person whose sole function is to maintain or repair a security alarm system is not included within the meaning of this definition"; in (8) near beginning, after "who", inserted "installs or maintains a security alarm system"; and in (10), near beginning substituted "conducts investigations" for "conducts any of the investigations enumerated in subsection (13)" and near end, after "surveillance activities", inserted remainder of subsection.

*1983 Amendment:* Inserted definitions of alarm response runner, armed carrier service, armed private investigator, armed private security guard, armored car service, Board, branch office, contract

security company, insurance adjuster, private investigator, private security guard, proprietary security organization, qualifying agent, security alarm system, street patrol service, unarmed private investigator, and unarmed private security guard; deleted former (2), which read: "Director means the director of the department of commerce or his designee", and former (4), which read: "Manager means the individual under whose direction, control, charge, or management the business of a licensee is operated"; in (9) after "department of commerce" inserted "provided for in 2-15-1801"; and in (11) after "chapter" deleted "and includes but is not limited to private investigator and private patrol operator".

*1981 Amendment:* Substituted "department of commerce" for "department of professional and occupational licensing" in (1); substituted "director of the department of commerce or his designee" for "director of the department of professional and occupational licensing" in (2).

### **Cross-References**

Libel and slander, Title 27, ch. 1, part 8.  
Criminal mischief and arson, Title 45, ch. 6, part 1.  
Criminal trespass and burglary, Title 45, ch. 6, part 2.  
Theft and related offenses, Title 45, ch. 6, part 3.

### **Administrative Rules**

ARM 24.182.301 Definitions.

**37-60-102. Repealed.** Sec. 34, Ch. 550, L. 1983.

**History:** En. 66-3305 by Sec. 5, Ch. 234, L. 1974; R.C.M. 1947, 66-3305(1).

**37-60-103. Purpose.** The purpose of this chapter is to increase the levels of integrity, competency, and performance of security companies and their employees who are required to be licensed, firearms instructors, private investigators, and process servers to safeguard the public health, safety, and welfare against illegal, improper, or incompetent actions committed by security companies and their licensed employees, firearms instructors, private investigators, or process servers.

**History:** En. 66-3305 by Sec. 5, Ch. 234, L. 1974; R.C.M. 1947, 66-3305(2); amd. Sec. 3, Ch. 550, L. 1983; amd. Sec. 13, Ch. 405, L. 2007; amd. Sec. 29, Ch. 502, L. 2007; amd. Sec. 2, Ch. 194, L. 2009.

### **Compiler's Comments**

*2009 Amendment:* Chapter 194 near middle and near end after "firearms instructors" deleted "fire investigators"; and made minor changes in style. Amendment effective October 1, 2009.

*2007 Amendments — Composite Section:* Chapter 405 in two places after "investigators" inserted reference to process servers; and made minor changes in style. Amendment effective July 1, 2007.

Chapter 502 near middle after "performance of" substituted "security companies and their employees who are required to be licensed, firearms instructors, fire investigators" for "private security personnel" and near end after "committed by" substituted "security companies and their licensed employees, firearms instructors, fire investigators" for "private security personnel"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*1983 Amendment:* Rewrote section (see 1983 Session Law). Text formerly read: "A private patrol operator or operator of a private patrol service within the meaning of this chapter is a person who, for any consideration whatsoever:

(1) agrees to furnish or furnishes a watchman, guard, patrolman, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or

(2) performs the service of such watchman, guard, patrolman, or other person for any of said purposes."

### **Administrative Rules**

ARM 24.182.301 Definitions.

**37-60-104. Restrictions on contract security company and proprietary security organization.** An employee of a contract security company or proprietary security organization may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property or any other thing that the employee has been hired or engaged to protect, guard, or watch.

**History:** En. 66-3305 by Sec. 5, Ch. 234, L. 1974; R.C.M. 1947, 66-3305(3); amd. Sec. 4, Ch. 550, L. 1983; amd. Sec. 1421, Ch. 56, L. 2009.

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

*2009 Amendment:* Chapter 56 made section gender neutral; and made minor changes in style. Amendment effective October 1, 2009.

*1983 Amendment:* At beginning of section substituted "No employee of a contract security company or proprietary security organization may" for "A person licensed as a private patrol operator only may not"; and after "other thing" deleted "enumerated in 37-60-103".

#### **Cross-References**

Theft and related offenses, Title 45, ch. 6, part 3.

**37-60-105. Exemptions.** (1) Except as provided in subsection (2), this chapter does not apply to:

(a) any one person employed singly and exclusively by any one employer in connection with the affairs of that employer only and when there exists an employer-employee relationship and the employee is unarmed, does not wear a uniform, and is guarding inside a structure that at the time is not open to the public;

(b) a person:

(i) employed singly and exclusively by a retail merchant;

(ii) performing at least some work for the retail merchant as a private security guard; and

(iii) who has received training as a private security guard from the employer or at the employer's direction;

(c) an officer or employee of the United States, of this state, or of a political subdivision of the United States or this state while the officer or employee is engaged in the performance of official duties;

(d) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

(e) an attorney at law while performing duties as an attorney at law;

(f) a legal intern, paralegal, or legal assistant employed by one or more lawyers, law offices, governmental agencies, or other entities;

(g) a law student who is serving a legal internship;

(h) a collection agency or finance company licensed to do business under the laws of this state, or an employee of a collection agency or finance company licensed in this state while acting within the scope of employment, while making an investigation incidental to the business of the agency or company, including an investigation of the location of a debtor or the debtor's property when the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent;

(i) special agents employed by railroad companies, provided that the railroad company notifies the board that its agents are operating in the state;

(j) insurers and insurance producers and insurance brokers licensed by the state while performing duties in connection with insurance transacted by them;

(k) individuals engaged in the collection and examination of physical material for forensic purposes;

(l) an insurance adjuster, as defined in 37-60-101;

(m) an internal investigator or auditor while making an investigation incidental to the business of the agency or company by which the investigator or auditor is singularly and regularly employed;

(n) a person who evaluates and advises management on personnel and human resource issues in the workplace; or

(o) a certified public accountant with a license or permit to practice or a practice privilege under 37-50-314 or 37-50-325 to the extent that the person is engaged in an investigation relating to the practice of accounting.

(2) (a) Except as provided in subsection (2)(b), persons listed as exempt in subsection (1) are not exempt for the purposes of acting as registered process servers.

(b) Subsection (2)(a) does not apply to attorneys or persons who make 10 or fewer services of process in a calendar year, as provided in 25-1-1101.

**History:** En. 66-3306 by Sec. 6, Ch. 234, L. 1974; R.C.M. 1947, 66-3306; amd. Sec. 5, Ch. 550, L. 1983; amd. Sec. 2, Ch. 647, L. 1985; amd. Sec. 2, Ch. 63, L. 1987; amd. Sec. 2, Ch. 332, L. 1989; amd. Sec. 2, Ch. 47, L. 1991; amd. Sec. 14, Ch. 405, L. 2007; amd. Sec. 3, Ch. 194, L. 2009; amd. Sec. 1, Ch. 38, L. 2015.

### **Compiler's Comments**

*2015 Amendment:* Chapter 38 inserted (1)(o) including certified public accountants; and made minor changes in style. Amendment effective October 1, 2015.

*2009 Amendment:* Chapter 194 inserted (1)(k) concerning the collection and examination of physical material for forensic purposes; inserted (1)(n) concerning personnel and human resource issues; and made minor changes in style. Amendment effective October 1, 2009.

*2007 Amendment:* Chapter 405 in (1) at beginning inserted exception clause; inserted (2) providing that persons listed as exempt are not exempt for purposes of acting as registered process servers and providing that exception does not apply to attorneys or persons making 10 or fewer services of process in calendar year; and made minor changes in style. Amendment effective July 1, 2007.

*1991 Amendment:* In (4)(b) substituted "one or more lawyers, law offices, governmental agencies, or other entities" for "a licensed attorney". Amendment effective February 24, 1991.

*Preamble:* The preamble attached to Ch. 47, L. 1991, provided: "WHEREAS, section 2, Chapter 332, Laws of 1989, exempted "a legal intern, paralegal, or legal assistant employed by a licensed attorney" from licensure as a private investigator; and

WHEREAS, the Board of Private Security Patrol Officers and Investigators, in Rule 8.50.423, Administrative Rules of Montana, interpreted the license exemption for paralegals to apply to "a paralegal employed by only one law firm" and required that paralegals "employed by more than one firm at the same time" be licensed as private investigators; and

WHEREAS, the Legislature intended the 1989 law, by use of the singular phrase "employed by a licensed attorney", to include the plural, in conformity with the basic rule of statutory construction set out in section 1-2-105, MCA, and now finds it necessary to clarify the licensing exemption with regard to paralegals."

*1989 Amendment:* In (4)(b) inserted "paralegal, or legal assistant"; inserted (4)(c) that read: "(c) a law student who is serving a legal internship"; and made minor changes in phraseology and punctuation.

*1987 Amendment:* Inserted (1)(b) exempting retail private security guards; in (4) substituted "legal intern employed by a licensed attorney" for "a paralegal or legal assistant employed by an attorney at law or a law student who is serving a legal internship"; and in (9), at end, inserted "and regularly" before "employed".

*1985 Amendment:* At end of (1) substituted "and is guarding inside a structure which at the time is not open to the public" for "and has little contact with the public"; deleted former (4) that read: "a charitable, philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit"; in (4) after "performing his duties as such attorney at law", inserted remainder of subsection; and inserted (9) exempting internal investigator or auditor.

*1983 Amendment:* In (1) substituted language exempting a person who works exclusively for one employer and who is unarmed, does not wear a uniform, and has little public contact for former text that read: "a person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship"; in (3), inserted final phrase beginning "or as to the personal habits..."; in (6) after "collection agency" inserted "or finance company licensed to do business under the laws of this state" and after "agency" inserted "or company"; inserted (7) exempting railroad special agents; and inserted (9) exempting insurance adjuster.

### **Cross-References**

Consumer reporting agencies, Title 31, ch. 3, part 1.

Insurance producers, adjusters, consultants, and administrators, Title 33, ch. 17.

### **Administrative Rules**

ARM 24.182.301 Definitions.

### **Attorney General's Opinions**

*Private Patrol Operator License Requirements Inapplicable to Reserve Officers:* The provision of 37-60-105 that exempts officers engaged in the performance of their official duties from the licensing requirements of the private investigators and private patrol operators licensing law applies to reserve officers as defined in 7-32-201, regardless of the source of any income they may receive when they are serving on the orders and at the direction of the chief law enforcement administrator of the local government. 38 A.G. Op. 58 (1979).

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## Part 2 Director of Department — Board

### Part Cross-References

Duties and powers of Department heads, 2-15-112.

Board established, 2-15-1781.

Duties of Director, 37-1-121.

**37-60-201. Organization — meetings — records.** The board shall meet annually and shall elect from among the seven members a president and a secretary. The board shall hold other meetings when necessary to transact its business. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board. Copies of records and papers kept by the department, certified by the president and authenticated by the seal of the board, must be received in evidence in courts with like effect as the original. Records of the board are open to public inspection under rules it prescribes.

**History:** En. 66-3302 by Sec. 2, Ch. 234, L. 1974; R.C.M. 1947, 66-3302; amd. Sec. 6, Ch. 550, L. 1983; amd. Sec. 40, Ch. 492, L. 2001.

### Compiler's Comments

*2001 Amendment:* Chapter 492 deleted former third sentence that read: "A majority of the board constitutes a quorum at any meeting"; and made minor changes in style. Amendment effective October 1, 2001.

*1983 Amendment:* Substituted entire text (see 1983 Session Law) for former text that read: "The director shall administer and enforce the provisions of this chapter."

### Administrative Rules

Title 24, chapter 182, subchapter 1, ARM Organizational rule.

Title 24, chapter 182, subchapter 2, ARM Procedural rules.

**37-60-202. Rulemaking power.** The board shall adopt and enforce rules:

(1) fixing the qualifications of resident managers, licensees, holders of identification cards, and process servers, in addition to those prescribed in Title 25, chapter 1, part 11, and in this chapter, necessary to promote and protect the public welfare;

(2) establishing, in accordance with 37-1-134, application fees for original licenses and identification cards, and providing for refunding of any fees;

(3) (a) requiring approval of the board prior to the establishment of branch offices of any licensee; and

(b) establishing qualification requirements and license fees for branch offices identified in subsection (3)(a);

(4) for the certification of private investigator, private security guard, security alarm installer, and alarm response runner training programs, including the certification of firearms training programs;

(5) for the licensure of firearms instructors;

(6) for the approval of weapons;

(7) requiring licensees, except process servers, to file an insurance policy with the board; and

(8) providing for the issuance of probationary identification cards for private investigators and security alarm installers who do not meet the requirements for age, employment experience, or written examination.

**History:** En. 66-3303 by Sec. 3, Ch. 234, L. 1974; R.C.M. 1947, 66-3303; amd. Sec. 7, Ch. 550, L. 1983; amd. Sec. 8, Ch. 647, L. 1985; amd. Sec. 3, Ch. 63, L. 1987; amd. Sec. 115, Ch. 429, L. 1995; amd. Sec. 42, Ch. 126, L. 2005; amd. Sec. 15, Ch. 405, L. 2007; amd. Sec. 30, Ch. 502, L. 2007; amd. Sec. 18, Ch. 100, L. 2011.

### **Compiler's Comments**

*2011 Amendment:* Chapter 100 deleted former (7) that read: "(7) requiring the maintenance of records"; and made minor changes in style. Amendment effective October 1, 2011.

*2007 Amendments — Composite Section:* Chapter 405 in (1) after "cards" inserted "and process servers" and inserted reference to Title 25, chapter 1, part 11; in (8) inserted "except process servers"; and made minor changes in style. Amendment effective July 1, 2007.

Chapter 502 in (1) after "managers" deleted "qualifying agents"; in (2) after "original" deleted "or renewal"; in (3) at beginning substituted "requiring approval of the board prior to" for "prohibiting" and after "licensee" deleted "except a proprietary security organization, without approval by the board"; in (4) after "guard" inserted "security alarm installer, and alarm response runner"; in (9) after "investigators" inserted "and security alarm installers"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*2005 Amendment:* Chapter 126 deleted former (1) that read: "(1) specifying the form of and procedure to be used in granting, denying, suspending, or revoking any license or identification card"; in (2) after "application" deleted "and examination"; in (3)(b) at end substituted "branch offices identified in subsection (3)(a)" for "those offices"; in (4) at end after "programs" deleted "and firearms instructors"; inserted (5) requiring rules related to the licensure of firearms instructors; in (8) near middle after "policy" deleted "or proof of financial responsibility as the board considers necessary"; and made minor changes in style. Amendment effective July 1, 2005.

*1995 Amendment:* Chapter 429 deleted (9) requiring Board to adopt rules defining unprofessional conduct for the purposes of removal from the Board and suspension or revocation of licenses and identification cards; deleted (10) requiring rules establishing the expiration and renewal periods for licenses and identification cards; deleted (11) requiring rules for the temporary employment of persons without the required licenses or identification cards; deleted (12) requiring rules providing for the issuance of probationary and temporary licenses for contract security companies and private investigators; deleted (14) requiring rules providing for the application of administrative fines and penalties for minor infractions of this chapter and supporting rules; and made minor changes in style.

*Severability:* Section 131, Ch. 429, L. 1995, was a severability clause.

*Saving Clause:* Section 132, Ch. 429, L. 1995, was a saving clause.

*Applicability:* Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

*1987 Amendment:* In lead-in deleted "reasonable" before "rules"; in (1), (3), (9), and (10) deleted reference to registration after reference to license; in (2) deleted "registrants" after "licensees"; in (8) substituted "file such insurance or proof of financial responsibility as the board considers necessary with the board" for "maintain such insurance coverage as the board considers necessary"; in (11) substituted "licenses" for "registration"; in (13) deleted "registration and" after "probationary"; and inserted (14) concerning fines and penalties.

*1987 Statement of Intent:* The statement of intent attached to Ch. 63, L. 1987, which amended this section, provided: "A statement of intent is required for this bill because in section 3 [37-60-202] it expands the authority of the board of private security patrolmen and investigators to provide for the application of administrative fines and penalties for minor infractions of Title 37, chapter 60, and the supporting rules.

It is the intent of the legislature that the board adopt rules that conform with chapter 60 and other applicable statutes. Administrative fines and penalties for minor infractions of the chapter or of the board's rules must be commensurate with the gravity of the infraction, and the board may not suspend or revoke a license granted under this chapter except upon indisputable evidence of violation of this chapter, other applicable statutes, or the board's rules."

*1985 Amendment:* Inserted (12) referring to issuance of probationary and temporary licenses; and inserted (13) referring to issuance of probationary identification cards.

*1983 Amendment:* In lead-in changed "the director may" to "the board shall"; in (1) substituted language directing the Board to adopt and enforce rules relating to the form and procedure for granting,

denying, suspending, or revoking any license, registration, or identification card for former text that read: "classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators and private patrol operators, and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage"; in (2) before "licensees" inserted "resident managers, qualifying agents" and after "licensees" inserted "registrants, and holders of identification cards"; in (3) substituted language directing the Board to establish various licensing fees for former text that read: "carrying out generally the provisions of this chapter"; and inserted (4) through (10) requiring Board to adopt and enforce rules to prohibit establishment of branch offices, provide for certification of training programs, provide for approval of weapons, require maintenance of records, require filing of insurance policy or proof of financial responsibility, define unprofessional conduct, and establish expiration and renewal periods.

*1983 Statement of Intent:* The statement of intent attached to Ch. 550, L. 1983, provided: "A statement of intent is required for this bill because section 7 [37-60-202] requires the board to adopt administrative rules.

Subsection (1) of 37-60-202 requires the board to adopt rules specifying the form of various documents granted by the board and the method of taking various licensing actions on the same. The minimum standards for the documents are set out in section 37-60-309 but may include such other matters of identification, such as fingerprints, as the board determines to be necessary. The procedures and standards for suspension and revocation of a license, registration, or identification card are set out in 37-60-321 [now repealed]. This section facially allows the board to suspend or revoke the registration of an individual for violations by his licensed employee or vice versa. As to those situations involving the suspension or revocation of the document of one party for the actions by another, it is the Legislature's intent that the board rules governing this matter should only require or allow the suspension or revocation of a document issued by the board if the person or entity whose document is in jeopardy had the right of control over the person or entity whose actions put the document in jeopardy and if the person whose document is in jeopardy knew or should have known of the actions of that other person.

Subsection (4) of 37-60-202 also requires the board to adopt rules prohibiting the establishment of certain branch offices without approval by the board and establishing requirements for board approval. The qualifications that may be required by the board under this subsection may not apply to proprietary security organizations, and may concern such matters as the supervision and management of the office but must not prescribe requirements for office size, equipment, etc.

Subsection (5) requires the adoption of training program rules. It is the intention of the Legislature that these rules specify a minimum curriculum and minimum standards for instructors used in all phases of the program, including firearms instructors.

Board rules adopted under subsection (8) relating to insurance may not require schools to carry insurance to protect themselves against civil liability for negligent or inadequate training incurred after students graduate from the training program.

Board rules defining "unprofessional conduct" under subsection (9) may include only that conduct which has a direct relationship to the ability of the board member or the licensee, registrant, or identification cardholder to perform official duties or acts taken in the capacity of a licensee, registrant, or cardholder.

Under subsection (11), the board must adopt rules which, at a minimum, provide for a maximum period of time in which employees may be considered to be "on probation" with an employer and for that period only, excused from the requirements for identification or registration cards which would otherwise apply."

#### **Cross-References**

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

#### **Administrative Rules**

Title 24, chapter 182, ARM Board of Private Security.

**37-60-203 through 37-60-210 reserved.**

**37-60-211. Compensation of board members — expenses.** Each member of the board shall receive compensation and travel expenses as provided for in 37-1-133.

History: En. Sec. 8, Ch. 550, L. 1983.

**37-60-212. Repealed.** Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 9, Ch. 550, L. 1983; amd. Sec. 48, Ch. 281, L. 1983.

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## Part 3 Licensing

### Part Cross-References

Proof of execution, Title 1, ch. 5, part 3.  
Power of notary to take acknowledgments, 1-5-603, 1-5-604.  
Oaths, Title 1, ch. 6.  
Licensing to follow contested case procedure, 2-4-631.  
Licensing boards to establish fees commensurate with costs, 37-1-134.  
Licensing investigation and review — record access, 37-1-135.  
Grounds for disciplinary action as grounds for license denial — conditions to new licenses, 37-1-137.  
Licensure of criminal offenders, Title 37, ch. 1, part 2.  
Carrying or possession of firearms, 37-60-101.  
Certification of firearms training programs, 37-60-202.  
Approval of weapons, 37-60-405.  
Perjury, 45-7-201.  
False swearing, 45-7-202.  
Nondiscrimination in licensing, 49-3-204.

### Part Administrative Rules

Title 24, chapter 182, subchapter 5, ARM Licensure requirements.

**37-60-301. License required — process server registration required.** (1) (a) Except as provided in 37-60-105, it is unlawful for any person to act as or perform the duties, as defined in 37-60-101, of a contract security company, a proprietary security organization, an electronic security company, a branch office, a private investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor, or a private security guard without having first obtained a license from the board.

(b) Except as provided in 25-1-1101(2), it is unlawful for any person to act as or perform the duties of a process server for more than 10 services of process in a calendar year without being issued a certificate of registration by the board.

(2) It is unlawful for any unlicensed person to act as, pretend to be, or represent to the public that the person is licensed as a contract security company, a proprietary security organization, an electronic security company, a branch office, a private investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor, or a private security guard.

(3) A person appointed by the court as a confidential intermediary under 42-6-104 is not required to be licensed under this chapter. A person who is licensed under this chapter is not authorized to act as a confidential intermediary, as defined in 42-1-103, without meeting the requirements of 42-6-104.

(4) A person who knowingly engages an unlicensed contract security company, proprietary security organization, electronic security company, branch office, private investigator, security alarm installer, alarm response runner, resident manager, certified firearms instructor, or private security guard is guilty of a misdemeanor punishable under 37-60-411.

History: En. 66-3304 by Sec. 4, Ch. 234, L. 1974; R.C.M. 1947, 66-3304; amd. Sec. 10, Ch. 550, L. 1983; amd. Sec. 4, Ch. 63, L. 1987; amd. Sec. 116, Ch. 429, L. 1995; amd. Sec. 2, Ch. 360, L. 1997; amd. Sec. 164, Ch. 480, L. 1997; amd. Sec. 16, Ch. 405, L. 2007; amd. Sec. 31, Ch. 502, L. 2007; amd. Sec. 4, Ch. 194, L. 2009.

### Compiler's Comments

*2009 Amendment:* Chapter 194 in (1)(a) near middle, in (2) near middle, and in (4) near middle after "private investigator" deleted reference to fire investigator; and made minor changes in style. Amendment effective October 1, 2009.

*2007 Amendments — Composite Section:* Chapter 405 in (1)(a) deleted former second sentence that read: "Those persons licensed on April 18, 1983, shall retain their current licensure status and shall renew their licenses on the renewal date as prescribed by the department"; inserted (1)(b) providing that except as provided in 25-1-1101(2), it is unlawful for person to act or perform duties of process server for more than 10 services in calendar year without being issued certificate of registration; and made minor changes in style. Amendment effective July 1, 2007.

Chapter 502 in (1) near beginning after "37-60-105" deleted "and 37-60-315", after "security organization" inserted "an electronic security company, a branch office", and after "investigator" inserted "a fire investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor" and deleted former second sentence that read: "Those persons licensed on April 18, 1983, shall retain their current licensure status and shall renew their licenses on the renewal date as prescribed by the department"; in (2) near middle after "licensed as" deleted "a private investigator" and after "organization" inserted "an electronic security company, a branch office, a private investigator, a fire investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor"; in (4) after "unlicensed" deleted "private investigator, private security guard, or" and after "contract security company" inserted "proprietary security organization, electronic security company, branch office, private investigator, fire investigator, security alarm installer, alarm response runner, resident manager, certified firearms instructor, or private security guard"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*1997 Amendments:* Chapter 360 in (1), near beginning of first sentence after "37-60-105", inserted "and 37-60-315"; and made minor changes in style. Amendment effective April 22, 1997.

Chapter 480 inserted (3) regarding confidential intermediary.

*Severability:* Section 172, Ch. 480, L. 1997, was a severability clause.

*Applicability:* Section 173, Ch. 480, L. 1997, provided: "(1) [Sections 1 through 156] [Title 42, chapters 1 through 7, and Title 52, chapter 8, part 1] apply to proceedings commenced on or after October 1, 1997.

(2) A petition for adoption filed prior to October 1, 1997, is governed by the law in effect at the time the petition was filed.

(3) The putative father registry requirements apply to children born on or after October 1, 1997."

*1995 Amendment:* Chapter 429 at end of (1) substituted "department" for "board"; and made minor changes in style.

*Severability:* Section 131, Ch. 429, L. 1995, was a severability clause.

*Saving Clause:* Section 132, Ch. 429, L. 1995, was a saving clause.

*Applicability:* Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

*1987 Amendment:* In (1) inserted "or perform the duties as defined in 37-60-101 of", after "private investigator" deleted "within this state", and inserted "or a private security guard"; inserted (2) providing that it is unlawful for an unlicensed person to act as a licensee; and inserted (3) providing that it is a misdemeanor to engage an unlicensed person.

*1983 Amendment:* Substituted entire text (see 1983 Session Law) for former text that read: "No person shall engage in a business regulated by this chapter unless he is licensed under this chapter, and no person shall falsely represent that he is employed by a licensee."

**37-60-302. Resident manager required.** (1) Any contract security company, electronic security company, or proprietary security organization that applies for a license under this chapter shall appoint for the duration of the license a resident manager. Each resident manager shall satisfy the appropriate licensing requirements of this chapter.

(2) A separate resident manager must be appointed for each branch office located in this state, and the business of the applicant or licensee must be conducted under the resident manager's direct supervision and control.

(3) If a resident manager for any reason ceases to perform the duties of a resident manager on a regular basis, the licensee shall promptly notify the board of that fact.

**History:** En. 66-3307 by Sec. 7, Ch. 234, L. 1974; R.C.M. 1947, 66-3307; amd. Sec. 11, Ch. 550, L. 1983; amd. Sec. 3, Ch. 647, L. 1985; amd. Sec. 43, Ch. 126, L. 2005; amd. Sec. 32, Ch. 502, L. 2007.

### **Compiler's Comments**

*2007 Amendment:* Chapter 502 in (1) in first sentence at beginning after "Any" deleted "out-of-state", after "contract security company" inserted "electronic security company", after "shall" deleted "before application to the board", and before "a resident" deleted "a qualifying agent and" and at beginning of second sentence substituted "Each" for "Every qualifying agent and"; in (2) at beginning inserted "separate"; in (3) in two places before "resident" deleted "qualifying agent or" and at end after "fact" deleted "and of the name of a substitute individual, who shall apply to the board for continuation of the license" and deleted former second sentence that read: "Pending application by and board action upon the application of the substitute, the board may suspend the license or extend it for a reasonable time"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*2005 Amendment:* Chapter 126 in (1) at beginning after "Any" substituted "out-of-state contract security company or proprietary security organization that" for "person not a resident of this state who"; in (3) near middle of first sentence after "board" deleted "by certified mail"; and made minor changes in style. Amendment effective July 1, 2005.

*1985 Amendment:* In (1), at beginning of first sentence substituted "Any person not a resident of this state who applies for a license under this chapter shall, before application" for "An applicant for a license under this chapter, other than an individual to operate as a contract security company or a private investigator, shall, upon or before application", near end of first sentence, before "a resident manager", inserted "a qualifying agent and", after "a resident manager" deleted part of former (1)(a) and (1)(b) that read: "for each branch office located within this state, under whose direct supervision and control the business of the applicant shall be conducted; and

(b) a qualifying agent", in second sentence, after "shall satisfy" deleted "all of" and at end of sentence, after "this chapter", deleted "as though the applicant were an individual"; and inserted (2) requiring business manager to be appointed for each branch office and to be responsible for business conducted under his supervision.

*1983 Amendment:* In (1), at beginning of subsection changed "An application" to "An applicant" and after "chapter" substituted language requiring an applicant to "appoint for the duration of the license" for former text that read: "shall be on a form prescribed by the director and accompanied by the application fee provided by this chapter"; inserted (1)(a) and (1)(b) requiring applicant for license to appoint a resident manager and qualifying agent; inserted (2) requiring qualifying agent and resident manager to satisfy appropriate licensing requirements; and inserted (3) requiring licensee to name a substitute and notify Board if qualifying agent or resident manager ceases to perform his duties.

### **Administrative Rules**

ARM 24.182.507 Temporary permit.

**37-60-303. License or registration qualifications.** (1) Except as provided in subsection (7)(a), an applicant for licensure under this chapter or an applicant for registration as a process server under this chapter is subject to the provisions of this section and shall submit evidence that the applicant:

(a) is at least 18 years of age;

(b) is a citizen of the United States or a legal, permanent resident of the United States;

(c) has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude or illegal use or possession of a dangerous weapon, for which a full pardon or similar relief has not been granted;

(d) has not been judicially declared incompetent by reason of any mental disease or disorder or, if so declared, has been fully restored;

(e) is not suffering from habitual drunkenness or from narcotics addiction or dependence;

(f) is of good moral character; and

(g) has complied with other experience qualifications as may be set by the rules of the board.

(2) In addition to meeting the qualifications in subsection (1), an applicant for licensure as a private security guard, security alarm installer, or alarm response runner shall:

(a) complete the requirements of a training program certified by the board and provide, on a form prescribed by the department, written notice of satisfactory completion of the training; and

(b) fulfill other requirements as the board may by rule prescribe.

(3) In addition to meeting the qualifications in subsection (1), each applicant for a license to act as a private investigator shall submit evidence under oath that the applicant:

(a) is at least 21 years of age;

(b) has at least a high school education or the equivalent;

(c) has not been dishonorably discharged from any branch of the United States military service;

and

(d) has fulfilled any other requirements as the board may by rule prescribe.

(4) The board may require an applicant to demonstrate by written examination additional qualifications as the board may by rule require.

(5) An applicant for a license as a private security patrol officer or private investigator who will wear, carry, or possess a firearm in performance of the applicant's duties shall submit written notice of satisfactory completion of a firearms training program certified by or satisfactory to the board, as the board may by rule prescribe.

(6) Except for an applicant subject to the provisions of subsection (7)(a), the board shall require a background investigation of each applicant for licensure or registration under this chapter that includes a fingerprint check by the Montana department of justice and the federal bureau of investigation.

(7) (a) A firm, company, association, partnership, limited liability company, corporation, or other entity that intends to engage in business governed by the provisions of this chapter must be incorporated under the laws of this state or qualified to do business within this state and must be licensed by the board or, if doing business as a process server, must be registered by the board.

(b) Individual employees, officers, directors, agents, or other representatives of an entity described in subsection (7)(a) who engage in duties that are subject to the provisions of this part must be licensed pursuant to the requirements of this part or, if doing business as a process server, must be registered by the board.

**History:** En. 66-3308 by Sec. 8, Ch. 234, L. 1974; R.C.M. 1947, 66-3308; amd. Sec. 12, Ch. 550, L. 1983; amd. Sec. 4, Ch. 647, L. 1985; amd. Sec. 5, Ch. 63, L. 1987; amd. Sec. 37, Ch. 481, L. 1997; amd. Sec. 11, Ch. 375, L. 2003; amd. Sec. 44, Ch. 126, L. 2005; amd. Sec. 17, Ch. 405, L. 2007; amd. Sec. 33, Ch. 502, L. 2007; amd. Sec. 19, Ch. 100, L. 2011; amd. Sec. 2, Ch. 161, L. 2015.

### **Compiler's Comments**

*2015 Amendment:* Chapter 161 in (1)(d) substituted "mental disease or disorder" for "mental defect or disease"; and made minor changes in style. Amendment effective April 1, 2015.

*2011 Amendment:* Chapter 100 in (1) after "submit evidence" deleted "under oath"; and in (2)(a) near middle substituted "department" for "board". Amendment effective October 1, 2011.

*2007 Amendments — Composite Section:* Chapter 405 in (1) and (6) substituted "subsection (7)(a)" for "subsection (7)"; in (1) after "chapter" inserted "or an applicant for registration as a process server under this chapter"; in (5) after "applicant" inserted "for a license as a private security patrol officer or private investigator"; in (6) after "licensure" inserted "or registration"; in (7)(a) and (7)(b) at end inserted "or, if doing business as a process server, must be registered by the board"; and made minor changes in style. Amendment effective July 1, 2007.

Chapter 502 in (1) in introductory clause substituted "(7)(a)" for "(7)"; in (1)(b) at end inserted "or a legal, permanent resident of the United States"; in (2) at end of introductory clause inserted "security alarm installer, or alarm response runner"; in (2)(a) near beginning after "complete the" deleted "training" and before "training program" deleted "private security guard"; in (5) after "carry" inserted "or possess"; in (6) in exception clause substituted "(7)(a)" for "(7)"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*2005 Amendment:* Chapter 126 deleted former (3)(d) that read: "(d) for a period of not less than 3 years:

(i) has been lawfully engaged in the private investigative business;

(ii) has been lawfully employed as a private investigator or been the holder of a certificate of authority to conduct a private investigative business; or

(iii) has been an investigator, detective, special agent, or peace officer of a city, county, or state government or of the United States government"; in (4) substituted language allowing written examination

of additional qualifications for former language that read: "Up to one-half of the experience required by subsection (3)(d) may be met by a combination of education and training as accepted by the board. All college credits must be from an accredited college or university and be verified by transcript"; deleted former (6) that read: "(6) The board may require an applicant to demonstrate by written examination additional qualifications as the board may by rule require"; deleted former (8)(b) that read: "(b) The board shall establish by rule the license application procedure and application fee for business entities described in subsection (8)(a)"; and made minor changes in style. Amendment effective July 1, 2005.

*2003 Amendment:* Chapter 375 in (1) in introductory clause after "Except as" substituted reference to subsection (8) for "otherwise specified in this section" and after "chapter" inserted reference to this section; deleted former (6) that read: "(6) A corporation applying for a license under this section must be incorporated under the laws of this state or be duly qualified to do business within this state"; in (6) after "board" substituted "may" for "shall"; inserted (7) requiring fingerprint checks for license applicants; inserted (8) relating to license application requirements for applicants other than individuals; and made minor changes in style. Amendment effective July 1, 2003.

*Saving Clause:* Section 14, Ch. 375, L. 2003, was a saving clause.

*1997 Amendment:* Chapter 481 deleted qualification in (3)(e) that applicant "has completed the training requirements of a private investigator training program certified by the board and furnished, on a form prescribed by the board, written notice of satisfactory completion of such training"; and made minor changes in style.

*Severability:* Section 49, Ch. 481, L. 1997, was a severability clause.

*1987 Amendment:* In (1), at beginning, substituted "Except as otherwise specified in this section, an applicant for licensure under this chapter" for "An applicant for a license to act as a contract security company or a proprietary security organization"; inserted (2) providing additional licensure requirements for private security guards; in (3), at beginning, substituted "In addition to meeting the qualifications in subsection (1), each" for "Every"; deleted former (a), (d), and (f) containing requirements of submitting evidence that an applicant is a U.S. citizen, has not been convicted of a felony or an offense involving moral turpitude, and is of good moral character; inserted (e) and (f) requiring an applicant to complete a training program and to fulfill other Board-prescribed requirements; inserted (5) requiring applicants who use firearms to complete a training program; and corrected internal references.

*1985 Amendment:* In (2)(b) substituted "21 years" for "25 years"; deleted former (2)(d) that read: "is a resident of this state"; deleted former (2)(h)(iv) that read: "has been graduated from an accredited university or college with a degree in police administration"; and inserted (3) allowing applicant to meet one-half of experience requirement of (2)(g) by combination of experience and training approved by the Board.

*1983 Amendment:* Substituted (1) stating license requirements for contract security company and proprietary security organization, (2) stating license requirements for private investigator, (3) requiring corporate applicant to be incorporated in this state, and (4) requiring Board to require applicant to take written examination for former (1) through (8), which read: "An application shall be verified and shall include:

- (1) the full name and business address of the applicant;
- (2) the name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification or classifications under which the applicant desires to be qualified;
- (5) if the applicant is a person other than an individual, the full name and residence address of each of its partners, officers, and directors and its manager;
- (6) two recent photographs of the applicant, of a type prescribed by the director, and two classifiable sets of his fingerprints;
- (7) a verified statement of his experience qualifications; and
- (8) such other information, evidence, statements, or documents as may be required by the director."

## **Administrative Rules**

ARM 24.182.301 Definitions.

ARM 24.182.505 Written examination.

ARM 24.182.801 Curriculum and standards for firearms training courses.

**37-60-304. Licenses and registration — application form and content.** (1) An application for a license or for a certificate of registration as a process server must be submitted to the department and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, an electronic security company, a branch office, a certified firearms instructor, a private investigator, a security alarm installer, an alarm response runner, a resident manager, or a private security guard or registered as a process server;

(e) except for an applicant pursuant to 37-60-303(7)(a), one recent photograph of the applicant, of a type prescribed by the department, and one classifiable set of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications, except for an applicant pursuant to 37-60-303(7)(a); and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application.

(4) The submittal of fingerprints is a prerequisite to the issuance of a license or certificate of registration to an applicant, other than an applicant under 37-60-303(7)(a), by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

**History:** En. 66-3309 by Sec. 9, Ch. 234, L. 1974; R.C.M. 1947, 66-3309; amd. Sec. 22, Ch. 22, L. 1979; amd. Sec. 13, Ch. 550, L. 1983; amd. Sec. 5, Ch. 647, L. 1985; amd. Sec. 6, Ch. 63, L. 1987; amd. Sec. 12, Ch. 375, L. 2003; amd. Sec. 45, Ch. 126, L. 2005; amd. Sec. 106, Ch. 467, L. 2005; amd. Sec. 18, Ch. 405, L. 2007; amd. Sec. 34, Ch. 502, L. 2007; amd. Sec. 5, Ch. 194, L. 2009.

### **Compiler's Comments**

*2009 Amendment:* Chapter 194 in (2)(d) after "private investigator" deleted "a fire investigator"; and made minor changes in style. Amendment effective October 1, 2009.

*2007 Amendments — Composite Section:* Chapter 405 in (1) at beginning deleted "Except as provided in 37-60-303(7)" and after "license" inserted "or for a certificate of registration as a process server"; in (2)(d) at end inserted "or registered as a process server"; in (3) at end inserted "other than an applicant under 37-60-303(7)(a)" (amendment rendered void by Ch. 502 amendment); in (4) after "license" inserted "or certificate of registration to an applicant, other than an applicant under 37-60-303(7)(a)"; and made minor changes in style. Amendment effective July 1, 2007.

Chapter 502 in (1) at beginning deleted "Except as provided in 37-60-303(7)"; in (2)(d) after "organization" inserted "an electronic security company, a branch office, a certified firearms instructor" and after "private investigator" inserted "a fire investigator, a security alarm installer, an alarm response runner, a resident manager"; in (2)(e) at beginning inserted exception clause; in (2)(f) at end inserted exception clause; in (3) at end deleted "and the applicant's moral character"; in (4) near middle inserted exception clause (amendment rendered void by Ch. 405 amendment); and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*2005 Amendments — Composite Section:* Chapter 126 in (1) near beginning substituted "37-60-303(7)" for "37-60-303(8)" and after "must be" substituted "submitted to the department" for "made on a form prescribed by the board"; in (2)(e) after "prescribed by the" substituted "department, and one classifiable set" for "board, and two classifiable sets"; deleted former (5) that read: "(5) The board shall send written notification to the chief of police, sheriff, and county attorney in whose jurisdiction the principal office of the applicant is to be located that an application has been submitted"; and made minor changes in style. Amendment effective July 1, 2005.

Chapter 467 in (1) near middle after "made on" substituted "an approved form" for "a form prescribed by the board" (amendment in (1) rendered void by Ch. 126 amendment); and made minor changes in style. Amendment effective July 1, 2005.

*2003 Amendment:* Chapter 375 in (1) inserted exception clause; in (2)(e) reduced number of required photographs from two to one; deleted former (2)(h) that read: "(h) if the applicant is a person other than an individual, the full name and residence address of each of its partners, officers, and

directors and its manager"; inserted (4) requiring submission of fingerprints; and made minor changes in style. Amendment effective July 1, 2003.

*Saving Clause:* Section 14, Ch. 375, L. 2003, was a saving clause.

*1987 Amendment:* In (2)(d) inserted "or a private security guard"; in (2)(f) inserted "age and"; and made minor changes in phraseology.

*1985 Amendment:* In (2)(h) after "and its manager", deleted "and, if the applicant is a corporation, a certified copy of its certificate of incorporation or certificate of authority issued by the secretary of state"; and in (3), at beginning of second sentence substituted "The board shall send written notification to" for "The board shall send a copy of the application to" and at end inserted "that an application has been submitted".

*1983 Amendment:* Substituted (1) through (3), relating to application form, content, and Board verification and requiring Board to send copy to local law enforcement agencies in jurisdiction where applicant's principal office is to be located, for former (1) through (4), which read: "Before a license is granted, the applicant or his manager shall meet all of the following:

(1) be at least 18 years of age;

(2) be a citizen of the United States and a resident of the state of Montana;

(3) be of good moral character and temperate habits; and

(4) comply with such other qualifications concerning training, education, or experience as the director may fix by rule."

### **Administrative Rules**

ARM 24.182.501 Required information for application.

**37-60-305. Repealed.** Sec. 18, Ch. 63, L. 1987.

*History:* En. 66-3310 by Sec. 10, Ch. 234, L. 1974; R.C.M. 1947, 66-3310; amd. Sec. 14, Ch. 550, L. 1983; amd. Sec. 6, Ch. 647, L. 1985.

**37-60-306. Repealed.** Sec. 18, Ch. 63, L. 1987.

*History:* En. 66-3311 by Sec. 11, Ch. 234, L. 1974; R.C.M. 1947, 66-3311; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 15, Ch. 550, L. 1983; amd. Sec. 7, Ch. 647, L. 1985.

**37-60-307. Repealed.** Sec. 128, Ch. 429, L. 1995.

*History:* En. 66-3312 by Sec. 12, Ch. 234, L. 1974; R.C.M. 1947, 66-3312; amd. Sec. 16, Ch. 550, L. 1983; amd. Sec. 7, Ch. 63, L. 1987; amd. Sec. 3, Ch. 332, L. 1989.

**37-60-308. Repealed.** Sec. 128, Ch. 429, L. 1995.

*History:* En. 66-3313 by Sec. 13, Ch. 234, L. 1974; R.C.M. 1947, 66-3313; amd. Sec. 17, Ch. 550, L. 1983; amd. Sec. 8, Ch. 63, L. 1987; amd. Sec. 51, Ch. 83, L. 1989.

**37-60-309. Form of license and identification cards.** The license and identification card must be in a form determined by the board.

*History:* En. 66-3314 by Sec. 14, Ch. 234, L. 1974; R.C.M. 1947, 66-3314; amd. Sec. 18, Ch. 550, L. 1983; amd. Sec. 9, Ch. 63, L. 1987; amd. Sec. 3, Ch. 360, L. 1997; amd. Sec. 35, Ch. 502, L. 2007.

### **Compiler's Comments**

*2007 Amendment:* Chapter 502 after "card" deleted "and temporary identification card for temporary security guards"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*1997 Amendment:* Chapter 360 near middle, after "identification card", inserted "and temporary identification card for temporary security guards"; and made minor changes in style. Amendment effective April 22, 1997.

*1987 Amendment:* Deleted "registration" after "license" and deleted former (2) and (3) that contained content required on license and registration or identification card.

*1983 Amendment:* In (1), after "license" deleted "when issued" and inserted "registration, and identification card", after "by the" changed "director" to "board", and made minor changes in phraseology;

deleted former (1), which read: "the name of the licensee"; at beginning of (2) inserted the clause before "the name under" and after "operate" inserted remainder of subsection requiring the number and date of the license; in (3) substituted language requiring a registration or identification card to include the holder's name and photograph, name of the licensee employing the holder, a card number, and issue date for former text that read: "the number and date of the license".

#### **Administrative Rules**

ARM 24.182.403 Identification pocket card.

**37-60-310. Display of license and identification card.** (1) A license must at all times be posted in a conspicuous place in the principal place of business of the licensee.

(2) A holder of an identification card shall carry the card while performing the cardholder's duties. A peace officer of this state or any of its political subdivisions may request to see the card at any reasonable time, and the card must be shown.

**History:** En. 66-3315 by Sec. 15, Ch. 234, L. 1974; R.C.M. 1947, 66-3315; amd. Sec. 20, Ch. 550, L. 1983; amd. Sec. 10, Ch. 63, L. 1987; amd. Sec. 4, Ch. 360, L. 1997; amd. Sec. 36, Ch. 502, L. 2007.

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

*2007 Amendment:* Chapter 502 in (2) in first sentence after "card" deleted "or a temporary identification card". Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*1997 Amendment:* Chapter 360 in (2), in first sentence after "identification card", inserted "or a temporary identification card" and after "carry the card" deleted "on his person"; and made minor changes in style. Amendment effective April 22, 1997.

*1987 Amendment:* In (2), at beginning of first sentence, deleted "registrant or" after "Any" and at end of sentence deleted "and while going to and from work".

*1983 Amendment:* Inserted (2) requiring registrant and holder of identification card to carry it on his person at certain times and allowing a peace officer to request to see it at any reasonable time.

#### **Administrative Rules**

ARM 24.182.507 Temporary permit.

**37-60-311. Repealed.** Sec. 34, Ch. 550, L. 1983.

**History:** En. 66-3316 by Sec. 16, Ch. 234, L. 1974; R.C.M. 1947, 66-3316.

**37-60-312. Repealed.** Sec. 127, Ch. 467, L. 2005.

**History:** En. 66-3329 by Sec. 29, Ch. 234, L. 1974; R.C.M. 1947, 66-3329; amd. Sec. 21, Ch. 550, L. 1983; amd. Sec. 11, Ch. 63, L. 1987; amd. Sec. 117, Ch. 429, L. 1995; amd. Sec. 53, Ch. 271, L. 2003.

**37-60-313. Repealed.** Sec. 34, Ch. 550, L. 1983.

**History:** En. 66-3330 by Sec. 30, Ch. 234, L. 1974; amd. Sec. 1, Ch. 42, L. 1975; R.C.M. 1947, 66-3330.

**37-60-314. Nontransferability of license — record changes.** (1) A license issued under this chapter is not transferable.

(2) A licensee shall notify the board within 5 days of any change in its officers or directors, name, address, employment, or other material change in the information previously furnished or required to be furnished to the board or any other material change or occurrence that could reasonably be expected to affect the licensee's right to a license. Upon the change or occurrence, the board may suspend or revoke the license or may allow the business to be carried on for a temporary period under terms and conditions as the board may require.

(3) This section may not be applied to restrict the sale of a business if the buyer qualifies for a license under the provisions of this chapter.

**History:** En. 66-3317 by Sec. 17, Ch. 234, L. 1974; R.C.M. 1947, 66-3317; amd. Sec. 22, Ch. 550, L. 1983; amd. Sec. 37, Ch. 502, L. 2007.

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

*2007 Amendment:* Chapter 502 in (2) in first sentence after "directors" inserted "name, address, employment"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*1983 Amendment:* Substituted language of (1) prohibiting license from being transferred, (2) requiring licensee notice of any material change in information furnished or required to be furnished or other circumstance that may affect right to license, and (3) providing that section may not be applied to affect certain sales of a business for former text that read: "A licensee shall notify the department of any and all changes of his address, of the name under which he does business, and of any change in its officers or partners within 30 days after such change."

**37-60-315. Repealed.** Sec. 50, Ch. 502, L. 2007.

History: En. Sec. 1, Ch. 360, L. 1997.

**37-60-316 through 37-60-319 reserved.**

**37-60-320. Fees.** (1) The fees prescribed by the board and collected by the department must be deposited into the state special revenue fund for the use of the board, subject to 37-1-101(6).

(2) The department shall keep an accurate account of funds received and vouchers issued by the department.

History: En. Sec. 19, Ch. 550, L. 1983; amd. Sec. 48, Ch. 281, L. 1983.

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

*1983 Amendment:* In (1), substituted "state special revenue fund" for "earmarked revenue fund".

#### **Administrative Rules**

ARM 24.182.401 Fee schedule.

**37-60-321. Repealed.** Sec. 128, Ch. 429, L. 1995.

History: En. 66-3327 by Sec. 27, Ch. 234, L. 1974; R.C.M. 1947, 66-3327; amd. Sec. 23, Ch. 550, L. 1983; amd. Sec. 12, Ch. 63, L. 1987.

**37-60-322. Repealed.** Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 24, Ch. 550, L. 1983; amd. Sec. 13, Ch. 63, L. 1987.

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## **Part 4**

### **Provisions Regulating Practice**

**37-60-401. Responsibility of licensee for conduct of employees.** A licensee is at all times legally responsible for the good conduct in the business of each employee, including the manager.

History: En. 66-3318 by Sec. 18, Ch. 234, L. 1974; R.C.M. 1947, 66-3318; amd. Sec. 1422, Ch. 56, L. 2009.

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

*2009 Amendment:* Chapter 56 made section gender neutral; and made minor changes in style. Amendment effective October 1, 2009.

#### **Cross-References**

Agency, Title 28, ch. 10.

Criminal trespass and burglary, Title 45, ch. 6, part 2.

#### **Administrative Rules**

ARM 24.182.405 Insurance requirements.

**37-60-402. Confidentiality of information — false reports — badges and uniforms — illegal entry.** (1) A licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or county attorney or representative of the county attorney any information that the licensee or officer, director, partner, or manager of a licensee may acquire as to any criminal offense but may not divulge to any other person, except as required by law, any information acquired except at the direction of the employer or client for whom the information was obtained.

(2) A licensee or officer, director, partner, manager, or employee of a licensee may not knowingly make any false report to an employer or client for whom information was being obtained.

(3) A written report may not be submitted to a client except by the licensee or a person authorized by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in the report are true and correct.

(4) A licensee or officer, director, partner, manager, or employee of a licensee may not use a title, wear a uniform, use an identification card, or make any statement with the intent to give an impression that the licensee or officer, director, partner, manager, or employee of a licensee is connected in any way with the federal government, a state government, a law enforcement agency, or any political subdivision of a state government unless the licensee has a contract with the agency.

(5) A licensee or officer, director, partner, manager, or employee of a licensee may not enter any private building or portion of a private building without the consent of the owner or of the person in legal possession of the private building.

**History:** En. 66-3319 by Sec. 19, Ch. 234, L. 1974; amd. Sec. 29, Ch. 101, L. 1977; R.C.M. 1947, 66-3319; amd. Sec. 25, Ch. 550, L. 1983; amd. Sec. 38, Ch. 502, L. 2007.

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

*2007 Amendment:* Chapter 502 in (3) after "licensee" deleted "qualifying manager"; in (4) near end after "state government" inserted "a law enforcement agency" and at end inserted "unless the licensee has a contract with the agency"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*1983 Amendment:* Deleted former (4) and (5), which read: "(4) No licensee or officer, director, partner, manager, or employee of a private investigator may use a badge in connection with the official activities of the licensee's business.

(5) No private patrol licensee or officer, director, partner, manager, or employee of a private patrol licensee may use a badge except while engaged in guard or patrol work and while wearing a uniform."

#### **Cross-References**

Criminal trespass and burglary, Title 45, ch. 6, part 2.

Impersonating public servant, 45-7-209.

#### **Administrative Rules**

ARM 24.182.407 Regulations of uniform.

**37-60-403. Licensee advertising.** Every advertisement by a licensee soliciting or advertising business must contain the licensee's name, address, and license number as they appear in the records of the board.

**History:** En. 66-3321 by Sec. 21, Ch. 234, L. 1974; R.C.M. 1947, 66-3321; amd. Sec. 26, Ch. 550, L. 1983; amd. Sec. 39, Ch. 502, L. 2007.

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

*2007 Amendment:* Chapter 502 after "address" inserted "and license number"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

*1983 Amendment:* At end of section, changed "department" to "board".

**37-60-404. Duty to maintain employee records.** Each employer shall maintain a record containing information relative to the employer's employees that may be prescribed by the board.

**History:** En. 66-3320 by Sec. 20, Ch. 234, L. 1974; R.C.M. 1947, 66-3320; amd. Sec. 27, Ch. 550, L. 1983; amd. Sec. 1423, Ch. 56, L. 2009.

### Compiler's Comments

*2009 Amendment:* Chapter 56 made section gender neutral; and made minor changes in style. Amendment effective October 1, 2009.

*1983 Amendment:* At beginning of section, changed "Each licensee" to "Each employer"; and at end of section changed "director" to "board".

**37-60-405. Approval of weapons.** The weapons to be carried by armed licensees or holders of identification cards as private security personnel or private investigators must be approved by the board.

**History:** En. 66-3328 by Sec. 28, Ch. 234, L. 1974; R.C.M. 1947, 66-3328; amd. Sec. 28, Ch. 550, L. 1983; amd. Sec. 14, Ch. 63, L. 1987; amd. Sec. 19, Ch. 405, L. 2007.

### Compiler's Comments

*2007 Amendment:* Chapter 405 after "or" substituted "holders of identification cards as private security personnel or private investigators" for "identification card holders". Amendment effective July 1, 2007.

*1987 Amendment:* Substituted "armed licensees or identification card holders" for "registrants".

*1983 Amendment:* Substituted language (see 1983 Session Law) for former text that read: "Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable by fine not to exceed \$500 or by imprisonment in the county jail not to exceed 6 months or by both such fine and imprisonment."

### Cross-References

Weapons, Title 45, ch. 8, part 3.

### Administrative Rules

ARM 24.182.420 Type of firearm.

**37-60-406. Repealed.** Sec. 50, Ch. 502, L. 2007.

**History:** En. Sec. 29, Ch. 550, L. 1983; amd. Sec. 15, Ch. 63, L. 1987; amd. Sec. 255, Ch. 800, L. 1991.

**37-60-407. Regulation of uniforms, badges, and equipment.** (1) No licensee or officer, director, partner, manager, or employee of a licensee may wear, carry, or display a badge in connection with the activities of the licensee's business.

(2) The board is authorized to establish rules regulating uniforms and any emblems, patches, insignias, and devices that may be either worn or displayed on uniforms, vehicles, or equipment.

**History:** En. Sec. 30, Ch. 550, L. 1983; amd. Sec. 16, Ch. 63, L. 1987.

### Compiler's Comments

*1987 Amendment:* In (1), at end, deleted "However, a person employed by a licensee who holds a commission as a peace officer, as defined in 46-1-201, is exempt from this provision."

### Cross-References

Impersonating public servant, 45-7-209.

### Administrative Rules

ARM 24.182.407 Regulations of uniform.

**37-60-408. Restrictions on use of certain automatic dial-up systems.** No person may install or use a security alarm system designed to automatically call a predetermined law enforcement telephone number without written permission from the chief law enforcement officer of the local government in which the alarm system is installed.

**History:** En. Sec. 1, Ch. 240, L. 1985.

**37-60-409. Installation of new security alarm systems by electrician.** An electrician who has received a license from the department pursuant to 37-68-301 may install new security alarm systems under the direction of a licensed security alarm installer. Work performed by an electrician under this section is subject to inspection and approval by a security alarm installer licensed under 37-60-303.

**History:** En. Sec. 9, Ch. 647, L. 1985; amd. Sec. 40, Ch. 502, L. 2007.

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

*2007 Amendment:* Chapter 502 in first sentence near end before "security" substituted "licensed" for "journeyman" and in second sentence after "electrician" inserted "under this section"; and made minor changes in style. Amendment effective October 1, 2007.

*Saving Clause:* Section 52, Ch. 502, L. 2007, was a saving clause.

**37-60-410 reserved.**

**37-60-411. Penalties — investigation — enforcement — review.** (1) Any person who violates any of the provisions of this chapter or who conspires with another person to violate any of the provisions of this chapter relating to licensure is guilty of a misdemeanor punishable by a fine of not more than \$1,000, by imprisonment of not more than 1 year, or by both fine and imprisonment.

(2) The board shall:

(a) gather evidence of violations of this chapter, and of any rule established pursuant to this chapter, by persons engaged in a business subject to licensure under this chapter who fail to obtain licenses; and

(b) furnish that evidence to prosecuting officers of any county or city.

(3) The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within the prosecutor's jurisdiction.

**History:** En. Sec. 31, Ch. 550, L. 1983; amd. Sec. 17, Ch. 63, L. 1987; amd. Sec. 118, Ch. 429, L. 1995.

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

*1995 Amendment:* Chapter 429 deleted (4) that read: "(4) (a) If upon investigation the board considers it appropriate, it may issue a citation to a licensee. The citation may contain:

(i) an order of abatement fixing a reasonable time for abatement of the violation; and

(ii) assessment of an administrative fine in an amount not to exceed \$500 for each violation of this chapter.

(b) A citation or fine assessment must inform the licensee that if he contests the finding of a violation, a review by the board may be requested in accordance with the Montana Administrative Procedure Act. If a review is not requested pursuant to this section, payment of the fine does not constitute an admission of the violation charged.

(c) If the licensee neither requests a review nor pays the assessed fine within 20 days of notice of the citation, the board shall suspend the license of such person 30 days after the notice of citation.

(d) All fines collected pursuant to this section must be deposited in the state special revenue fund for use of the board"; and made minor changes in style.

*Severability:* Section 131, Ch. 429, L. 1995, was a severability clause.

*Saving Clause:* Section 132, Ch. 429, L. 1995, was a saving clause.

*Applicability:* Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

*1987 Amendment:* In (1) inserted "or who conspires with another person to violate any of the provisions of this chapter relating to licensure"; inserted (2) requiring Board to investigate violations and report them to local prosecuting officers; inserted (3) requiring local officers to prosecute such violations; and inserted (4) establishing a procedure whereby the Board may issue a citation for a violation of the chapter.