

**PLUMBERS BOARD LAWS
AS OF THE 2019 LEGISLATIVE SESSION**

**TITLE 37, CHAPTER 69
PLUMBERS**

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CHAPTER 69 PLUMBERS

Chapter Cross-References

Construction contracts, Title 18, ch. 2.
Building construction standards, Title 50, ch. 60.

Chapter Administrative Rules

Title 24, chapter 180, ARM Board of Plumbers.

Chapter Case Notes

Dual Regulation Constitutional: Prior to enactment of subsection (3) of 50-60-506, concurrent regulation of plumbers by the state under 50-60-505 and by certain municipalities under 50-60-301 did not deny the plumbers due process or the equal protection of the law. The state regulatory system was a valid exercise of police power over a lawful business. *Billings Assoc. Plumbing, Heating & Cooling Contractors v. Bd. of Plumbers*, 184 M 249, 602 P2d 597, 36 St. Rep. 1996 (1979).

Chapter Law Review Articles

Construction Law, Morrissey & Woods, 42 Mercer L. Rev. 25 (1990).

Part 1 General

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

History: En. 66-2401.1 by Sec. 227, Ch. 350, L. 1974; amd. Sec. 2, Ch. 497, L. 1975; R.C.M. 1947, 66-2401.1; amd. Sec. 4, Ch. 549, L. 1979; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 1, Ch. 661, L. 1985; amd. Sec. 152, Ch. 483, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 483 in definition of department substituted reference to department of labor and industry for reference to department of commerce and substituted "part 17" for "part 18"; and made minor changes in style. Amendment effective July 1, 2001.

1985 Amendment: In (7)(a), at beginning inserted "Except as provided in subsection (7)(b)", and near middle after "premises" inserted "up to 20 feet beyond the building foundation line"; and inserted (7)(b) stating which services plumbing system does not include.

1981 Amendment: Substituted "department of commerce" for "department of professional and occupational licensing" in (2); and changed internal references to the department and the board.

Administrative Rules

ARM 24.180.301 Definitions.

Attorney General's Opinions

Interpretation of Plumber Licensing Statutes by Board of Plumbers — Licensing Authority Restricted by Statute — Intention of Legislature — Penalty Statute Inapplicable: The Board of Plumbers has the legal authority to interpret this chapter, and the interpretation by the Board must be given deference unless it is incorrect. In interpreting the plumbing licensing statutes, the intent of the Legislature must be determined, and if that intent can be understood from a plain reading of the statutes, there is no need to look further. The statutes as well as the statutory history clearly indicated that a plumber's license is required only for a person who is: (1) working in the field of plumbing in an incorporated city or town; (2) working in the field of plumbing in an area served by a public water supply or sewer system; or (3) working in the field of plumbing and connects or disconnects plumbing to or from a public water supply or sewer system, unless an exemption is granted. There is no penalty applicable to an unlicensed person for whom a license is not required by statute. 47 A.G. Op. 21 (1998).

License Requirements for Factory Workers Installing Plumbing in Modular Homes: The licensing requirement for plumbing is codified in 37-69-301. The definition of "field of plumbing" in 37-69-101 covers the work done at the factory. If the modular home in question is to be finally located "in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state", another licensing requirement factor is met. The third factor leading to the requirement of a plumbing license is work as either a master plumber or as a journeyman plumber, as defined in 37-69-101, which is interpreted as doing the tasks one would be authorized to perform if he were licensed. Therefore, Montana factory workers who install, at the factory, plumbing in modular homes which are to be located "in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state" must be licensed as plumbers under Title 37, ch. 69. 38 A.G. Op. 60 (1980). See also 47 A.G. Op. 21 (1998).

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

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

(h) 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) 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) 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) 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.

(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.

History: (1)En. Sec. 1, Ch. 203, L. 1949; amd. Sec. 1, Ch. 185, L. 1961; amd. Sec. 1, Ch. 497, L. 1975; Sec. 66-2401, R.C.M. 1947; (2)En. Sec. 15, Ch. 251, L. 1959; amd. Sec. 1, Ch. 44, L. 1973; amd. Sec. 12, Ch. 497, L. 1975; Sec. 66-2426, R.C.M. 1947; R.C.M. 1947, 66-2401(2), 66-2426; amd. Sec. 2, Ch. 661, L. 1985; amd. Sec. 1, Ch. 361, L. 1999; amd. Sec. 3, Ch. 14, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 14 inserted (1)(i) regarding apprentices; inserted (1)(j) regarding students enrolled in certain plumbing training programs; and made minor changes in style. Amendment effective July 1, 2015.

1999 Amendment: Chapter 361 in (1)(a) near middle after "mobile home dealer" substituted "or a manufactured housing dealer connects a mobile home or a manufactured house" for "makes such installation" and after "existing" inserted "sanitary and potable water supply"; in (1)(c) inserted second sentence defining farm or ranch; in (1)(d) after "extending" inserted "repairing, or replacing"; inserted (1)(h) exempting installation of the pump, waterline, or pressure tank in the case of a private water supply; inserted (3) allowing an unlicensed person to perform temporary plumbing work under certain conditions; inserted (4) requiring withdrawal of the temporary authorization when a licensed person is reasonably available; and made minor changes in style. Amendment effective October 1, 1999.

1985 Amendment: In (1)(c) substituted "in a farm or ranch not connected to public water supply" for "in farms or ranches having their own private water supply"; in (1)(d) substituted "in cities, towns, water districts, and water user associations" for "in cities and towns", and after "own" deleted "city"; inserted (1)(g) referring to water meter installation; and in (2) near end after "farms," substituted "or ranches not connected to public water supply" for "having their own individual water supply".

Cross-References

Exceptions to plumbing installation requirements, 50-60-503.

Exceptions to penalty for violation of plumbing installation requirements, 50-60-515.

Administrative Rules

ARM 24.180.508 Temporary exceptions.

ARM 24.180.607 Temporary practice permits.

Attorney General's Opinions

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working in the field of plumbing and connects or disconnects plumbing to or from a public water supply or sewer system, unless an exemption is granted. There is no penalty applicable to an unlicensed person for whom a license is not required by statute. 47 A.G. Op. 21 (1998).

37-69-103. No penalty for hiring unlicensed plumber. This chapter may not be construed as imposing a penalty on any unlicensed person for hiring or contracting with an unlicensed person to do work in the field of plumbing. However, a person who engages in the field of plumbing at a time when the person is not licensed is subject to the penalties imposed by this chapter.

History: En. Sec. 4, Ch. 251, L. 1959; amd. Sec. 8, Ch. 497, L. 1975; R.C.M. 1947, 66-2415; amd. Sec. 27, Ch. 22, L. 1979; amd. Sec. 1453, 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.

Part 2 Board of Plumbers

Part Cross-References

Right to know, Art. II, sec. 9, Mont. Const.
Open meetings, Title 2, ch. 3, part 2.
Meeting defined, 2-3-202.
Adoption and publication of rules, Title 2, ch. 4, part 3.
Public records, Title 2, ch. 6.
Allocation of boards for administrative purposes, 2-15-121.
Quasi-judicial boards, 2-15-124.
Board established, 2-15-1765.
Preservation of records, Title 22, ch. 3, part 2.
Duties of Department, Director, and boards, Title 37, ch. 1, part 1.
Duty of Department to keep records, 37-1-101.
Disrupting meeting as disorderly conduct, 45-8-101.

Part Administrative Rules

Title 24, chapter 180, subchapter 1, ARM Organizational rules.
Title 24, chapter 180, subchapter 2, ARM Procedural rules.

37-69-201. Presiding officer. The board shall annually select a presiding officer from its members.

History: (1)En. Sec. 3, Ch. 251, L. 1959; amd. Sec. 235, Ch. 350, L. 1974; Sec. 66-2414, R.C.M. 1947; (2)En. Sec. 9, Ch. 203, L. 1949; amd. Sec. 234, Ch. 350, L. 1974; Sec. 66-2409, R.C.M. 1947; R.C.M. 1947, 66-2409(1), 66-2414(part); amd. Sec. 73, Ch. 492, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 492 deleted former (2) that read: "(2) A majority of the board constitutes a quorum"; and made minor changes in style. Amendment effective October 1, 2001.

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.

History: (1)En. Sec. 9, Ch. 203, L. 1949; amd. Sec. 234, Ch. 350, L. 1974; Sec. 66-2409, R.C.M. 1947; (2)En. Sec. 3, Ch. 251, L. 1959; amd. Sec. 235, Ch. 350, L. 1974; Sec. 66-2414, R.C.M. 1947; R.C.M. 1947, 66-2409(2), 66-2414(part).

Administrative Rules

Title 24, chapter 180, ARM Board of Plumbers.

Attorney General's Opinions

Interpretation of Plumber Licensing Statutes by Board of Plumbers — Licensing Authority Restricted by Statute — Intention of Legislature — Penalty Statute Inapplicable: The Board of Plumbers has the legal authority to interpret this chapter, and the interpretation by the Board must be given deference unless it is incorrect. In interpreting the plumbing licensing statutes, the intent of the Legislature must be determined, and if that intent can be understood from a plain reading of the statutes, there is no need to look further. The statutes as well as the statutory history clearly indicated that a plumber's license is required only for a person who is: (1) working in the field of plumbing in an incorporated city or town; (2) working in the field of plumbing in an area served by a public water supply or sewer system; or (3) working in the field of plumbing and connects or disconnects plumbing to or from a public water supply or sewer system, unless an exemption is granted. There is no penalty applicable to an unlicensed person for whom a license is not required by statute. 47 A.G. Op. 21 (1998).

37-69-203. Compensation of board members — expenses. A member of the board is entitled to compensation and travel expenses as provided for in 37-1-133.

History: En. Sec. 3, Ch. 203, L. 1949; amd. Sec. 16, Ch. 251, L. 1959; amd. Sec. 2, Ch. 185, L. 1961; amd. Sec. 143, Ch. 147, L. 1963; amd. Sec. 2, Ch. 186, L. 1965; amd. Sec. 229, Ch. 350, L. 1974; amd. Sec. 39, Ch. 439, L. 1975; amd. Sec. 4, Ch. 497, L. 1975; R.C.M. 1947, 66-2403(1); amd. Sec. 34, Ch. 474, L. 1981.

Compiler's Comments

1981 Amendment: Substituted section (see 1981 Session Law) for former text that read: "A member of the board is entitled to compensation of \$20 for each day while actually engaged in the work of the board and reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503".

Board Compensation and Travel Expenses — Preamble: The preamble of SB 463 (Ch. 474, L. 1981), which provided for uniform compensation and travel expenses for Board members, is located in the compiler's comments under 37-1-133.

Part 3 Licensing

Part Cross-References

- Licensing to follow contested case procedure, 2-4-631.
- Duty of Department to administer and grade examinations, 37-1-101.
- Duty of Board to adopt and enforce licensing and certification rules, 37-1-131.
- 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.
- Nondiscrimination in licensing, 49-3-204.

Part Administrative Rules

- Title 24, chapter 180, subchapter 5, ARM Licensing and scope of practice.
- Title 24, chapter 180, subchapter 6, ARM Licensing and Board specific rules.

Part Attorney General's Opinions

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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.

History: En. Sec. 1, Ch. 203, L. 1949; amd. Sec. 1, Ch. 185, L. 1961; amd. Sec. 1, Ch. 497, L. 1975; R.C.M. 1947, 66-2401(1); amd. Sec. 3, Ch. 661, L. 1985; amd. Sec. 2, Ch. 361, L. 1999; amd. Sec. 5, Ch. 402, L. 1999.

Compiler's Comments

1999 Amendments — Composite Section: Chapter 361 in (1) at beginning inserted exception clause, after "plumbing in" deleted "any incorporated city, town, or in any other area served by a public water supply or a public sewer system in", after "journeyman plumber" deleted "or who while working at the field of plumbing shall connect plumbing to or disconnect plumbing from a public water supply or public sewer system", after "first" substituted "obtain a license" for "secure a state license", and after "provided" inserted "in Title 37, chapter 69, part 3" and deleted former second sentence that read: "The council or commission of any city or town or board of directors or managers of a water or sewer district or water utility, in cases where a duly licensed person or persons are not reasonably available, may by ordinance, rule, or resolution duly adopted and upon reasonable notice by certified letter to the board of plumbers and upon their approval, or after 30 days from the date of the postmark of the certified letter if the board fails to respond to the certified letter, authorize the practice in the field of plumbing by a person or persons who have not obtained the state licenses as hereinafter provided until such time as a duly licensed person or persons are reasonably available or until the board of plumbers withdraws its authorization"; and made minor changes in style. Amendment effective October 1, 1999.

Chapter 402 inserted (2) regarding license and proof of insurance; and made minor changes in style. Amendment effective July 1, 1999.

1985 Amendment: In second sentence, near middle after "reasonable notice", inserted "by certified letter", after "upon their approval", inserted "or after 30 days from the date of the postmark of the certified letter if the board fails to respond to the certified letter", and near end after "reasonably available", inserted "or until the board of plumbers withdraws its authorization".

Cross-References

"Registered mail" to include registered or certified mail, 1-1-202.

Metropolitan sanitary and/or storm sewer districts, Title 7, ch. 13, part 1.

Municipal sewage and/or water systems, Title 7, ch. 13, part 43.

Attorney General's Opinions

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Public Utility Contractor Not to Install Certain Service Lines in Billings Unless Licensed by State as Plumber — City Required to Check License Qualifications:

In clarifying 44 A.G. Op. 12, the Attorney General noted that work done on a public water supply or public sewer system that does not include work falling within the statutory distances for plumbing or drainage systems does not require a state-issued plumber's license. Therefore, the city of Billings may not allow public utility contractors to install water service lines that extend from the public water main to a point within the walls of the private property or within 20 feet from any foundation wall of the premises, whichever distance is shorter as measured from the foundation wall, or wastewater service lines that

extend from the public sewer main to a point within 2 feet from any foundation wall of the premises, unless the contractor also has a plumber's license issued by the state. 44 A.G. Op. 39 (1992).

The city of Billings may not allow public utility contractors to install water and wastewater service lines that extend from the public water or sewer main to a point within the walls of the private property or within 20 feet from any foundation wall of the private residence unless the contractor also has a plumber's license issued by the state. The city is required to determine whether a person applying for a plumbing permit pursuant to the Uniform Plumbing Code is licensed by the state as a plumber if the type of work described in the permit requires licensure as a requisite to performance. 44 A.G. Op. 12 (1991).

License Requirements for Factory Workers Installing Plumbing in Modular Homes: The licensing requirement for plumbing is codified in 37-69-301. The definition of "field of plumbing" in 37-69-101 covers the work done at the factory. If the modular home in question is to be finally located "in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state", another licensing requirement factor is met. The third factor leading to the requirement of a plumbing license is work as either a master plumber or as a journeyman plumber, as defined in 37-69-101, which is interpreted as doing the tasks one would be authorized to perform if he were licensed. Therefore, Montana factory workers who install, at the factory, plumbing in modular homes which are to be located "in any incorporated city, town, or in any other area served by a public water supply or a public sewer system in this state" must be licensed as plumbers under Title 37, ch. 69. 38 A.G. Op. 60 (1980). See also 47 A.G. Op. 21 (1998).

37-69-302. Repealed. Sec. 4, Ch. 14, L. 2015.

History: En. Sec. 6, Ch. 203, L. 1949; amd. Sec. 232, Ch. 350, L. 1974; amd. Sec. 6, Ch. 497, L. 1975; R.C.M. 1947, 66-2406.

37-69-303. Application — contents — requirements. A person, firm, or corporation desiring to engage in or work in the field of plumbing in this state, either as a master plumber or as a journeyman plumber, shall make application to the department by filing a written application stating the applicant's place of residence, age, and experience and the place where the applicant has acquired experience and must at a time and place designated by the board be examined as to the qualifications for a license.

History: En. Sec. 4, Ch. 203, L. 1949; amd. Sec. 230, Ch. 350, L. 1974; amd. Sec. 5, Ch. 497, L. 1975; R.C.M. 1947, 66-2404(part); amd. Sec. 1454, 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.

Administrative Rules

ARM 24.180.404 Applications.

ARM 24.180.603 Reciprocity.

ARM 24.180.604 Out-of-state applicants.

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 years of legally obtained experience in the field of plumbing with an attestation of skill by a supervising master plumber. 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, and the attestation of a supervising master plumber; or

(ii) completing an apprenticeship program meeting the standards set by the department or the United States department of labor, bureau of apprenticeship. 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.

(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. The board shall define the periods and the levels for which the master plumber shall attest the journeyman plumber's skills, as provided in subsection (1).

History: En. Sec. 2, Ch. 203, L. 1949; amd. Sec. 1, Ch. 186, L. 1965; amd. Sec. 228, Ch. 350, L. 1974; amd. Sec. 3, Ch. 497, L. 1975; amd. Sec. 22, Ch. 101, L. 1977; R.C.M. 1947, 66-2402(2), (3); amd. Sec. 1, Ch. 10, L. 1991; amd. Sec. 19, Ch. 196, L. 2003; amd. Sec. 116, Ch. 467, L. 2005; amd. Sec. 3, Ch. 90, L. 2015; amd. Sec. 1, Ch. 420, L. 2019.

Compiler's Comments

2019 Amendment: Chapter 420 in (1)(a) at end of first sentence inserted "with an attestation of skill by a supervising master plumber"; in (1)(a)(i) at end inserted "and the attestation of a supervising master plumber"; in (2) inserted last two sentences regarding requirement that the licensed master plumber observe the journeyman plumber's work at different times over the course of employment as specified by the board; and made minor changes in style. Amendment effective October 1, 2019.

2015 Amendment: Chapter 90 in (1)(b) substituted "a written examination" for "an examination" and substituted "if required by the board, a practical demonstration establishing competence" for "establishing by practical demonstration competence"; and made minor changes in style. Amendment effective July 1, 2015.

2005 Amendment: Chapter 467 in (1)(a) in first sentence after "5" substituted "years of legally obtained" for "years" and after "plumbing" deleted "of a character satisfactory to the board" and near middle of second sentence after "the department" deleted "of labor and industry"; in (1)(b) near beginning after "examination" inserted "prescribed by the board"; deleted former (3) and (4) that read: "(3) The board shall determine by rule the fees to be charged an applicant for each examination or reexamination. The fees must be commensurate with costs.

(4) The department may use a third party to provide examination and grading services"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 196 inserted (3) concerning adoption of rules establishing fees; inserted (4) concerning third-party examination and grading services; and made minor changes in style. Amendment effective October 1, 2003.

1991 Amendment: In (1)(a), in two places, increased from 4 to 5 the number of years of experience required of applicants for a journeyman plumber's license and in second sentence, after "plumbing business", inserted "verified by time or pay records"; and made minor change in style.

Part of Section Not Codified: Section 66-2402(1), R.C.M. 1947, requiring persons desiring to work in the field of plumbing to file an application with the Department, has not been codified in the MCA, as the Code Commissioner determined it to be redundant with 37-69-303. However, the section has not been repealed and is still valid law. Citation may be made to sec. 2, Ch. 203, L. 1949, as amended by sec. 1, Ch. 186, L. 1965, as amended by sec. 228, Ch. 350, L. 1974, as amended by sec. 3, Ch. 497, L. 1975, as amended by sec. 22, Ch. 101, L. 1977.

Administrative Rules

- ARM 24.180.401 Fee schedule.
- ARM 24.180.404 Applications.
- ARM 24.180.407 Examinations.
- ARM 24.180.501 Journeyman plumbers' responsibilities.
- ARM 24.180.504 Qualifications — journeyman.
- ARM 24.180.505 Journeyman must work in employ of master.
- ARM 24.180.607 Temporary practice permits.

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 of experience as a licensed journeyman plumber 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 who has personally observed the applicant over a period specified by the board by rule and during application of plumbing skill levels, as determined by the board by rule; or

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

(c) 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) 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.

History: (1)En. Sec. 2, Ch. 203, L. 1949; amd. Sec. 1, Ch. 186, L. 1965; amd. Sec. 228, Ch. 350, L. 1974; amd. Sec. 3, Ch. 497, L. 1975; amd. Sec. 22, Ch. 101, L. 1977; Sec. 66-2402, R.C.M. 1947; (2)En. Sec. 4, Ch. 203, L. 1949; amd. Sec. 230, Ch. 350, L. 1974; amd. Sec. 5, Ch. 497, L. 1975; Sec. 66-2404, R.C.M. 1947; R.C.M. 1947, 66-2402(part), 66-2404(part); amd. Sec. 5, Ch. 549, L. 1979; amd. Sec. 1, Ch. 369, L. 1989; amd. Sec. 20, Ch. 196, L. 2003; amd. Sec. 117, Ch. 467, L. 2005; amd. Sec. 2, Ch. 420, L. 2019.

Compiler's Comments

2019 Amendment: Chapter 420 in (1)(b) inserted "which may run concurrently with the requirement in subsection (1)(a)"; in (1)(b)(i) inserted "who has personally observed the applicant over a period specified by the board by rule and during application of plumbing skill levels, as determined by the board by rule"; in (1)(b)(ii) after "plumbing" deleted "which may run concurrently with the requirement in subsection (1)(a)"; and made minor changes in style. Amendment effective October 1, 2019.

2005 Amendment: Chapter 467 in (1)(c) near beginning after "examination" inserted "prescribed by the board"; deleted former (4) and (5) that read: "(4) The board shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.

(5) The department may use a third party to provide examination and grading services"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendment: Chapter 196 inserted (4) concerning adoption of rules establishing fees; inserted (5) concerning third-party examination and grading services; and made minor changes in style. Amendment effective October 1, 2003.

1989 Amendment: In (1)(a), before "journeyman plumber", inserted "licensed" and at end substituted "verified by time or pay records of actual plumbing experience" for "of a character satisfactory to the board"; in (1)(b), after "experience", substituted "working with a licensed master plumber or in a supervisory capacity" for "in supervisory capacities"; inserted (2) defining a year's experience; and made minor changes in phraseology.

Administrative Rules

ARM 24.180.401 Fee schedule.

ARM 24.180.404 Applications.

ARM 24.180.407 Examinations.

ARM 24.180.506 Qualifications — master.

ARM 24.180.507 Master plumbers — registration of business name.

37-69-306. Examination — issuance of license. (1) An applicant for a license to work in the field of plumbing must be examined as to the applicant's qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine the applicant's skill and qualifications as a master plumber or journeyman plumber.

(2) The applicant must, upon successfully passing an examination prescribed by the board, be issued a license authorizing the applicant to engage in the field of plumbing as a master plumber or journeyman plumber in the state of Montana.

(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.

(4) In addition to the temporary permits authorized in 37-1-305, the board may, on a case-by-case basis at the board's discretion in accordance with criteria determined by the board, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible.

History: (1), (2)En. Sec. 3, Ch. 203, L. 1949; amd. Sec. 16, Ch. 251, L. 1959; amd. Sec. 2, Ch. 185, L. 1961; amd. Sec. 143, Ch. 147, L. 1963; amd. Sec. 2, Ch. 186, L. 1965; amd. Sec. 229, Ch. 350, L. 1974; amd. Sec. 39, Ch. 439, L. 1975; amd. Sec. 4, Ch. 497, L. 1975; Sec. 66-2403, R.C.M. 1947; (3)En. Sec. 4, Ch. 203, L. 1949; amd. Sec. 230, Ch. 350, L. 1974; amd. Sec. 5, Ch. 497, L. 1975; Sec. 66-2404, R.C.M. 1947; R.C.M. 1947, 66-2403(2), 66-2404(part); amd. Sec. 3, Ch. 203, L. 1999; amd. Sec. 118, Ch. 467, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 467 in (4) at end after "eligible" deleted "but who submits a temporary practice permit renewal application to the board stating that the person intends to retake the license examination on the next available date"; and made minor changes in style. Amendment effective July 1, 2005.

1999 Amendment: Chapter 203 inserted (4) regarding renewal of temporary practice permit. Amendment effective October 1, 1999.

Administrative Rules

ARM 24.180.407 Examinations.

ARM 24.180.507 Master plumbers — registration of business name.

37-69-307. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 5, Ch. 203, L. 1949; amd. Sec. 3, Ch. 185, L. 1961; amd. Sec. 1, Ch. 237, L. 1965; amd. Sec. 231, Ch. 350, L. 1974; amd. Sec. 10, Ch. 215, L. 1975; amd. Sec. 3, Ch. 541, L. 1977; R.C.M. 1947, 66-2405; amd. Sec. 6, Ch. 549, L. 1979; amd. Sec. 9, Ch. 390, L. 1983; amd. Sec. 51, Ch. 492, L. 1997; amd. Sec. 21, Ch. 196, L. 2003; amd. Sec. 58, Ch. 271, L. 2003.

37-69-308. Deposit of fees and fines. (1) Money paid for license fees under this chapter must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

(2) Fines collected under this chapter must be deposited in the state general fund.

History: En. Sec. 7, Ch. 203, L. 1949; amd. Sec. 144, Ch. 147, L. 1963; amd. Sec. 233, Ch. 350, L. 1974; R.C.M. 1947, 66-2407; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 6, Ch. 402, L. 1999.

Compiler's Comments

1999 Amendment: Chapter 402 inserted (2) regarding deposit of fines; and made minor changes in style. Amendment effective July 1, 1999.

1983 Amendment: Substituted reference to state special revenue fund for reference to earmarked revenue fund.

37-69-309. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 5, Ch. 661, L. 1985.

37-69-310. Citation and fine for failure to display license. (1) A citation for failure to display a plumber's license or proof of licensure issued by an employee of the department must include:

(a) the time and date on which the citation is issued;

(b) the name, address, mailing address, and signature of the person to whom the citation is issued;

(c) reference to the statutory authority to issue the citation;

(d) the name, title, affiliation, and signature of the person issuing the citation;

(e) information explaining the procedure for the person to follow in order to pay the fine or to demonstrate proof of licensure; and

(f) the amount of the applicable fine.

(2) The applicable civil fines for failing to display a license or proof of licensure are as follows:

(a) \$100 for the first offense, unless the provisions of subsection (4)(b) apply;

(b) \$250 for the second offense; and

(c) \$500 for the third and any subsequent offense.

(3) Each day of violation constitutes a separate offense. The person issuing the citation is responsible for determining, by means of an up-to-date list or through telephone or other communication with the board office, whether the citation being issued is for a first, second, or subsequent offense.

(4) (a) The person who issues the citation is authorized to collect the fine, but the person who is issued a citation may pay the fine to the board within 5 business days of the date of issuance.

(b) The board may not impose a fine for a first offense on a licensee who produces proof of licensure to the department within 5 days of the citation. In other cases, the board may, upon finding that the person has demonstrated acceptable proof of licensure, waive or refund the fine.

(5) A person who refuses to sign and accept a citation commits a misdemeanor, punishable in the same manner as provided in 37-1-318.

History: En. Sec. 8, Ch. 402, L. 1999; amd. Sec. 153, Ch. 483, L. 2001; amd. Sec. 4, Ch. 90, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 90 in (2)(a) after "offense" inserted "unless the provisions of subsection (4)(b) apply"; in (4)(b) inserted first sentence prohibiting fining a licensee who produces proof of licensure; and made minor changes in style. Amendment effective July 1, 2015.

2001 Amendment: Chapter 483 in (1) near end after "department" deleted "of commerce". Amendment effective July 1, 2001.

Effective Date: Section 11, Ch. 402, L. 1999, provided that this section is effective July 1, 1999.

37-69-311. License of retirement status. (1) A licensee who no longer practices plumbing may apply to the department for retirement status.

(2) Upon receiving an application for retirement status accompanied by the fee established by the board, the department shall issue a license of retirement status to the applicant and record the applicant's name in the appropriate database as a holder of a license of retirement status, along with the date on which the licensee received retirement status.

(3) A license of retirement status does not allow a holder to practice plumbing under this chapter.

(4) The department shall reissue an active license to a holder of a license of retirement status who pays the appropriate active license renewal fee and meets any competency requirements established by rule by the department.

History: En. Sec. 2, Ch. 502, L. 2007.

Compiler's Comments

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

Effective Date: This section is effective October 1, 2007.

Administrative Rules

ARM 24.180.608 Reissuance of license on active status following retirement.

37-69-312 through 37-69-318 reserved.

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, an employee of the department, a person who is professionally responsible for a job site, or a plumber licensed under Title 37, chapter 69, 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.

History: En. Sec. 2, Ch. 368, L. 1995; amd. Sec. 7, Ch. 402, L. 1999.

Compiler's Comments

1999 Amendment: Chapter 402 inserted (2) authorizing department to issue citation and collect fine; and made minor changes in style. Amendment effective July 1, 1999.

37-69-320. License and endorsement discipline. (1) 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;

(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;

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

(f) 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.

History: En. Sec. 6, Ch. 661, L. 1985; amd. Sec. 3, Ch. 221, L. 1995.

Compiler's Comments

1995 Amendment: Chapter 221 in (1) and (2), after "licensee", inserted "or endorsee"; in (1)(c), after "license", inserted "or endorsement"; in (1)(e), after "licensee's", inserted "or endorsee's"; and made minor changes in style.

Purported Repeal — Coordination: Section 128, Ch. 429, L. 1995, repealed this section, but sec. 5, Ch. 221, L. 1995, a coordination section, voided the repeal.

Uniform Plumbing Code: The Uniform Plumbing Code is published by International Association of Plumbing and Mechanical Officials, 5032 Alhambra, Los Angeles, California 90032.

37-69-321. Repealed. Sec. 8, Ch. 661, L. 1985.

History: (1)En. Sec. 8, Ch. 203, L. 1949; Sec. 66-2408, R.C.M. 1947; (2)En. Sec. 8, Ch. 251, L. 1959; amd. Sec. 10, Ch. 497, L. 1975; Sec. 66-2419, R.C.M. 1947; R.C.M. 1947, 66-2408, 66-2419.

37-69-322. Repealed. Sec. 128, Ch. 429, L. 1995.

History: (1), (2)En. Sec. 9, Ch. 251, L. 1959; amd. Sec. 238, Ch. 350, L. 1974; amd. Sec. 11, Ch. 497, L. 1975; Sec. 66-2420, R.C.M. 1947; (3)En. Sec. 11, Ch. 251, L. 1959; amd. Sec. 239, Ch. 350, L. 1974; Sec. 66-2422, R.C.M. 1947; R.C.M. 1947, 66-2420, 66-2422.

37-69-323. Restrictions on and responsibility for employees of master plumber. 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 with the state plumbing code. The 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 an assurance but has not personally observed a portion of the plumbing work performed by the employed journeyman plumber or apprentice. The board shall provide by rule what portion of the plumbing work must be personally observed by the licensed master plumber.

History: En. Sec. 2, Ch. 203, L. 1949; amd. Sec. 1, Ch. 186, L. 1965; amd. Sec. 228, Ch. 350, L. 1974; amd. Sec. 3, Ch. 497, L. 1975; amd. Sec. 22, Ch. 101, L. 1977; R.C.M. 1947, 66-2402(part); amd. Sec. 3, Ch. 420, L. 2019.

Compiler's Comments

2019 Amendment: Chapter 420 in second sentence after "work performed by" substituted "the journeyman plumber or apprentice employed by the licensed master plumber" for "such employees" and

inserted third and fourth sentences concerning potential charges and rulemaking. Amendment effective October 1, 2019.

Cross-References

Apprenticeship, Title 39, ch. 6, part 1.

Administrative Rules

ARM 24.180.501 Journeyman plumbers' responsibilities.

ARM 24.180.504 Qualifications — journeyman.

ARM 24.180.506 Qualifications — master.

ARM 24.180.604 Out-of-state applicants.

ARM 24.180.607 Temporary practice permits.

37-69-324. Penalty. A person who works at the field of plumbing or maintains or conducts a plumbing business or an individual who connects or disconnects plumbing from a public water or sewer system in violation of any provisions of this chapter or at a time when the person is not exempt from the provisions of this chapter pursuant to the provisions of an enacted and subsisting ordinance of a city or town is guilty of a misdemeanor. However, this chapter may not be construed to apply to or affect plumbing or pipefitting as indicated in the 37-69-102 exceptions.

History: En. Sec. 11, Ch. 203, L. 1949; amd. Sec. 4, Ch. 185, L. 1961; amd. Sec. 7, Ch. 497, L. 1975; amd. Sec. 23, Ch. 101, L. 1977; R.C.M. 1947, 66-2411; amd. Sec. 7, Ch. 661, L. 1985; amd. Sec. 1455, 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.

1985 Amendment: In first sentence, near end after "competent jurisdiction", substituted "is guilty of a misdemeanor" for "shall be punished by a fine of not less than \$10 and not more than \$100 for each separate offense", and in second sentence substituted "may" for "shall".

Cross-References

Misdemeanor defined, 45-2-101.

Criminal responsibility and accountability of corporations, 45-2-311, 45-2-312.

Misdemeanor penalty when none specified, 46-18-212.

Attorney General's Opinions

Interpretation of Plumber Licensing Statutes by Board of Plumbers — Licensing Authority Restricted by Statute — Intention of Legislature — Penalty Statute Inapplicable: The Board of Plumbers has the legal authority to interpret this chapter, and the interpretation by the Board must be given deference unless it is incorrect. In interpreting the plumbing licensing statutes, the intent of the Legislature must be determined, and if that intent can be understood from a plain reading of the statutes, there is no need to look further. The statutes as well as the statutory history clearly indicated that a plumber's license is required only for a person who is: (1) working in the field of plumbing in an incorporated city or town; (2) working in the field of plumbing in an area served by a public water supply or sewer system; or (3) working in the field of plumbing and connects or disconnects plumbing to or from a public water supply or sewer system, unless an exemption is granted. There is no penalty applicable to an unlicensed person for whom a license is not required by statute. 47 A.G. Op. 21 (1998).

Malmstrom Air Force Base — Enforcement: By the authority granted the state by 2-1-202, the plumbers licensing law may be enforced on Malmstrom Air Force Base as to nonfederal entities so long as application of state law does not interfere with the U.S. government's use of the property for military purposes. 38 A.G. Op. 64 (1980).

Part 4

Medical Gas Piping

Part Cross-References

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

Board of plumbers, 2-15-1765.

37-69-401. Medical gas piping installation endorsement. (1) 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.

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

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

History: En. Sec. 1, Ch. 221, L. 1995; amd. Sec. 119, Ch. 467, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 467 in (4) deleted former second sentence that read: "Fees must be established by rule and must be commensurate with the costs of administering the medical gas piping installation endorsement program." Amendment effective July 1, 2005.

Administrative Rules

Title 24, chapter 180, subchapter 7, ARM Medical gas endorsement.

37-69-402. Requirements for installation of medical gas piping. (1) After April 1, 1996, a person may not install pipe used solely to transport gases used for medical purposes unless the person holds a valid medical gas piping installation endorsement pursuant to 37-69-401.

(2) A violation of this section is punishable pursuant to 37-69-324.

History: En. Sec. 2, Ch. 221, L. 1995.

37-69-403. Proof of endorsement. (1) A state or local government plumbing code compliance inspector shall, as part of any inspection, request proof of medical gas piping installation endorsement from any person who is required to hold an endorsement under 37-69-402 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 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 person who is professionally responsible for a job site, or a person who holds a medical gas piping installation endorsement under Title 37, chapter 69, has the right to ask a person doing work on the job site that requires an endorsement to provide proof of endorsement. 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.

History: En. Sec. 2, Ch. 486, L. 1999.

Compiler's Comments

Effective Date: Section 4, Ch. 486, L. 1999, provided that this section is effective on passage and approval. Approved April 27, 1999.