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As of: May 23, 2006 (2:26pm)

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**** Bill No. ****

Introduced By *****

By Request of the *****

HJR 10 PROPOSED BILL #1

A Bill for an Act entitled: "An Act generally revising laws governing the department of justice's fire prevention and investigation section and laws referencing and governing local governmental fire agencies; defining "governmental fire agency" and standardizing its usage; clarifying that a chief of a governmental fire agency may receive confidential criminal justice information; eliminating restrictions on pay for special fire inspectors; requiring municipalities and governmental fire agencies to adopt the same fire codes as the codes adopted by the department of justice; clarifying the penalty for setting or leaving a fire that causes damage and increasing the minimum fine; eliminating duplicate provisions prohibiting certain campfires and throwing lighted material; requiring fire incident reports to be filed with the department of justice; and amending sections 2-7-501, 2-15-1519, 2-15-2005, 7-6-204, 18-8-202, 25-13-613, 27-1-714, 39-71-118, 40-6-402, 44-5-103, 44-5-303, 46-18-261, 50-3-101, 50-3-102, 50-3-106, 50-5-215, 50-19-403, 50-37-107, 50-37-108, 50-37-109, 50-60-202, 50-61-102, 50-61-114, 50-61-115, 50-61-121, 50-62-101, 50-62-102, 50-62-103, 50-62-112, 50-63-102, 50-63-103, 50-63-202, 50-63-203, 50-63-401, 50-63-402, 50-63-404, 50-78-102, 52-2-733, 52-2-734, 52-4-205, 53-20-307,

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61-8-102, 61-8-364, 61-9-402, and 75-10-725, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-7-501, MCA, is amended to read:

"2-7-501. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Audit" means a financial audit and includes financial statement and financial-related audits as defined by government auditing standards as established by the U.S. comptroller general.

(2) "Board" means the Montana board of public accountants provided for in 2-15-1756.

(3) "Department" means the department of administration.

(4) (a) "Financial assistance" means assistance provided by a federal, state, or local government entity to a local government entity or subrecipient to carry out a program. Financial assistance may be in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct appropriations, or other noncash assistance. Financial assistance includes awards received directly from federal and state agencies or indirectly when subrecipients receive funds identified as federal or state funds by recipients. The granting agency is responsible for identifying the source of funds awarded to recipients. The recipient is responsible for identifying the source of funds awarded to subrecipients.

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(b) Financial assistance does not include direct federal, state, or local government cash assistance to individuals.

(5) "Financial report" means a presentation of financial statements, including applicable supplemental notes and supplemental schedules, that are prepared in a format published by the department using the Budgetary Accounting and Reporting System for Montana Cities, Towns, and Counties Manual and that reflect a current financial position and the operating results for the 1-year reporting period.

(6) "Independent auditor" means:

(a) a federal, state, or local government auditor who meets the standards specified in the government auditing standards; or

(b) a licensed accountant who meets the standards in subsection (6) (a).

(7) (a) "Local government entity" means a county, city, district, or public corporation that:

(i) has the power to raise revenue or receive, disburse, or expend local, state, or federal government revenue for the purpose of serving the general public;

(ii) is governed by a board, commission, or individual elected or appointed by the public or representatives of the public; and

(iii) receives local, state, or federal financial assistance.

(b) Local government entities include but are not limited to:

(i) airport authority districts;

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- (ii) cemetery districts;
- (iii) counties;
- (iv) county housing authorities;
- (v) county road improvement districts;
- (vi) county sewer districts;
- (vii) county water districts;
- (viii) county weed management districts;
- (ix) drainage districts;
- (x) ~~fire department relief associations~~ companies;
- (xi) fire districts;
- (xii) fire service areas;
- ~~(xii)~~(xiii) hospital districts;
- ~~(xiii)~~(xiv) incorporated cities or towns;
- ~~(xiv)~~(xv) irrigation districts;
- ~~(xv)~~(xvi) mosquito districts;
- (xvii) municipal fire departments
- ~~(xvi)~~(xviii) municipal housing authority districts;
- ~~(xvii)~~(xix) port authorities;
- ~~(xviii)~~(xx) solid waste management districts;
- ~~(xix)~~(xxi) rural improvement districts;
- ~~(xx)~~(xxii) school districts including a district's
extracurricular funds;
- ~~(xxi)~~(xxiii) soil conservation districts;
- ~~(xxii)~~(xxiv) special education or other cooperatives;
- ~~(xxiii)~~(xxv) television districts;
- ~~(xxiv)~~(xxvi) urban transportation districts;
- ~~(xxv)~~(xxvii) water conservancy districts; and

~~(xxvi)~~(xxviii) other miscellaneous and special districts.

(8) "Revenues" means all receipts of a local government entity from any source excluding the proceeds from bond issuances."

{ *Internal References to 2-7-501:*
70-9-802 }

Section 2. Section 2-15-1519, MCA, is amended to read:

"2-15-1519. Fire services training advisory council. (1)

The board of regents shall appoint a fire services training advisory council to work with the director of the fire services training school. The membership of the council shall include the following:

- (a) a fire chief;
- (b) a volunteer firefighter;
- (c) a paid firefighter;
- (d) a fire service instructor;
- (e) a person involved in fire prevention;
- (f) a representative of the insurance industry; and
- (g) a professional educator.

(2) The board shall solicit and consider the recommendations of appropriate organizations and associations of fire service personnel in making appointments under subsection (1).

(3) Members shall serve for 4-year terms and may be removed for cause. If a vacancy occurs, a member must be appointed to fill the unexpired term. A member may be reappointed.

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(4) A representative of the state fire prevention and investigation program section of the department of justice, a fire control officer designated by the director of the department of natural resources and conservation, and the director of the fire services training school are ex officio members of the council."

{ *Internal References to 2-15-1519:*
20-31-101 }

Section 3. Section 2-15-2005, MCA, is amended to read:

"2-15-2005. State fire prevention and investigation program section -- advisory council. (1) There is a state fire prevention and investigation program section in the department of justice and under the supervision and control of the attorney general.

(2) A person appointed to administer the fire prevention and investigation program section shall represent the state of Montana as the state fire marshal and must be a person qualified by experience, training, and high professional competence in matters of fire service and safety.

(3) The attorney general shall create a fire prevention and investigation advisory council in accordance with procedures provided in 2-15-122."

{ *Internal References to 2-15-2005:*
50-3-101 77-5-104 }

Section 4. Section 7-6-204, MCA, is amended to read:

"7-6-204. Crediting of interest -- exceptions. (1) Interest paid and collected on deposits or investments must be credited to

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the general fund of the county, city, or town to whose credit the funds are deposited unless otherwise provided:

- (a) by law;
- (b) by terms of a gift, grant, or donation; or
- (c) by subsections (2) and (3).

(2) Subject to subsection (1), interest paid and collected on the deposits or investments of the funds of a volunteer fire district or department organized in an unincorporated area under Title 7, chapter 33, part 21 or 23, or of a fire service area or county fire department, must be credited to the account of that fire district, ~~or department,~~ or service area.

(3) Subject to subsection (1), interest paid and collected on the deposits or investments of any fund separately created and accounted for by a county, city, or town may be credited to the separately created fund proportionately to each fund's participation in the deposit or investment."

{ *Internal References to 7-6-204:*
7-6-2701 7-7-2112 }

Section 5. Section 18-8-202, MCA, is amended to read:

"18-8-202. Definitions. Unless the context clearly indicates otherwise, in this part, the following definitions apply:

(1) "Agency" means a state agency, local agency, or special district.

(2) "Architectural, engineering, and land surveying" means services rendered by a person, other than as an employee of an

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agency, contracting to perform activities within the scope of the general definition of professional practice and licensed for the respective practice as an architect pursuant to Title 37, chapter 65, or an engineer or land surveyor pursuant to Title 37, chapter 67.

(3) "Licensed professional" or "licensed architect, professional engineer, professional land surveyor" means a person providing professional services who is not an employee of the agency for which the services are provided.

(4) "Local agency" means a city, town, county, special district, municipal corporation, agency, port district or authority, airport authority, political subdivision of any type, or any other entity or authority of local government, in corporate form or otherwise.

(5) "Person" means an individual, organization, group, association, partnership, firm, joint venture, or corporation.

(6) "Special district" means a unit of local government, other than a city, town, or county, authorized by law to perform a single function or a limited number of functions, including but not limited to water districts, irrigation districts, fire districts, fire service areas, school districts, community college districts, hospital districts, sewer districts, and transportation districts.

(7) "State agency" means a department, agency, commission, bureau, office, or other entity or authority of state government."

{*Internal References to 18-8-202:*

61-3-321 61-3-332 }

Section 6. Section 25-13-613, MCA, is amended to read:

"25-13-613. Property necessary to carry out governmental functions. (1) In addition to the property mentioned in 25-13-609(1), ~~there shall be the following property is~~ exempt to from all judgment debtors ~~the following property:~~

(a) ~~all fire engines, hooks, and ladders, with the cart, trucks, and carriages, hose, buckets, implements, and apparatus thereto appertaining, and all furniture and uniforms of any fire company or department organized under any laws of this state~~ necessary firefighting equipment and facilities of any governmental fire agency;

(b) all arms, uniforms, and accouterments required by law to be kept by any person and one gun to be selected by the debtor;

(c) all courthouses, jails, public offices, and buildings, lots, grounds, and personal property, the fixtures, furniture, books, papers, and appurtenances belonging and pertaining to the courthouse, jail, and public offices belonging to any county of this state; and

(d) all cemeteries, public squares, parks, and places, public buildings, town halls, public markets, buildings for the use of fire departments and military organizations, and the lots and grounds ~~thereto belonging and appertaining~~ owned or held by any town or incorporated city or dedicated by such city or town to health, ornament, or public use or for the use of any fire or

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military company organized under the laws of the state.

(2) ~~No article, however, or species of The property mentioned listed in this section is not exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage lien ~~thereon~~ on the property, and ~~no~~ a person who is not a bona fide resident of this state ~~shall have the benefit of~~ is not entitled to these exemptions.~~

(3) As used in this section, "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33."

{*Internal References to 25-13-613: None.*}

Section 7. Section 27-1-714, MCA, is amended to read:

"27-1-714. Limits on liability for emergency care rendered at scene of accident or emergency. (1) Any person licensed as a physician and surgeon under the laws of the state of Montana, any ~~volunteer~~ firefighter or officer of ~~any nonprofit volunteer fire company~~ a governmental fire agency, or any other person who in good faith renders emergency care or assistance with or without compensation except as provided in subsection (2) at the scene of an emergency or accident is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering ~~such~~ the emergency care or assistance.

(2) Subsection (1) includes a person properly trained under the laws of this state who operates an ambulance to and from the scene of an emergency or renders emergency medical treatment on a

~~volunteer basis so long as the total reimbursement received for such volunteer services does not exceed 25% of his gross annual income or \$3,000 a calendar year, whichever is greater.~~

(3) If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, ~~such~~ the refusal does not constitute gross negligence or a willful or wanton act or omission.

(4) As used in this section, "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33."

{Internal References to 27-1-714: None.}

Section 8. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, and volunteer firefighter defined. (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise

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covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the

definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-1-301;

(g) ~~a person who is an enrolled member of a volunteer fire department, as described in 7-33-4109,~~ volunteer firefighter or a person who provides ambulance services under Title 7, chapter 34, part 1; and

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704 is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under

the policy. The endorsement may cover only the entity's public assistance participants and may only be for the duration of each participant's training while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(2) The terms defined in subsection (1) do not include a person who is:

(a) participating in recreational activity and who at the time is relieved of and is not performing prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket, permit, device, or other emolument of employment;

(b) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(c) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(c), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in

39-71-123.

(d) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter any volunteer as defined in subsection (2)(c).

(4) (a) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a ~~fire company organized and funded by a county, a rural fire district, or a fire service area~~ governmental fire agency.

(b) The term "volunteer hours" means all the time spent by a volunteer firefighter in the service of an employer, including but not limited to training time, response time, and time spent at the employer's premises.

(c) The term "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33.

(5) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the

sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$900 a month and not more than 1 1/2 times the state's average weekly wage.

(6) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve

upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (6)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state's average weekly wage.

(7) (a) The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may elect to include as an employee within the provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

(b) In the event of an election, the employer shall report payroll for all volunteer firefighters for premium and weekly benefit purposes based on the number of volunteer hours of each firefighter times the average weekly wage divided by 40 hours,

subject to a maximum of 1 1/2 times the state's average weekly wage.

(c) A self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer firefighter pursuant to subsection (7)(a) and when injured in the course and scope of employment as a volunteer firefighter, may in addition to the benefits described in subsection (7)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may make an election for benefits. If an election is made, payrolls must be reported and premiums must be assessed on the assumed wage.

(8) Except as provided in chapter 8 of this title, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(9) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all

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purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(10) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (10)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

- (i) nonresident employees are hired in Montana;
- (ii) nonresident employees' wages are paid in Montana;
- (iii) nonresident employees are supervised in Montana; and
- (iv) business records are maintained in Montana.

(11) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (10)(b) or (10)(d) as a condition of approving the election under subsection (10)(d)."

{ *Internal References to 39-71-118:*

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39-71-117 39-71-123 39-71-401 39-71-744
39-71-4003 50-71-102 }

Section 9. Section 40-6-402, MCA, is amended to read:

"40-6-402. Definitions. As used in this part, the following definitions apply:

(1) "Child-placing agency" means an agency licensed under Title 52, chapter 8, part 1.

(2) "Court" means a court of record in a competent jurisdiction and, in Montana, means a district court or a tribal court.

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

(4) "Emergency services provider" means:

(a) a uniformed or otherwise identifiable employee of a fire department, hospital, or law enforcement agency when the individual is on duty inside the premises of the fire department, hospital, or law enforcement agency; or

(b) any law enforcement officer, as defined in 7-32-201, who is in uniform or is otherwise identifiable.

(5) "Fire department" means ~~a fire department organized by a city, town, or city-county consolidated local government~~ a governmental fire agency organized under under Title 7, chapter 33.

(6) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(7) "Guardian ad litem" means a person appointed to represent a newborn under Title 41, chapter 3.

(8) "Hospital" has the meaning provided in 50-5-101.

(9) "Law enforcement agency" means a police department, a sheriff's office, a detention center as defined in 7-32-2241, or a correctional institution as defined in 45-2-101.

(10) "Newborn" means an infant who a physician reasonably believes to be no more than 30 days old.

(11) "Surrender" means to leave a newborn with an emergency services provider without expressing an intent to return for the newborn."

{ *Internal References to 40-6-402:*
41-3-102 41-3-102 }

Section 10. Section 44-5-103, MCA, is amended to read:

"44-5-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Access" means the ability to read, change, copy, use, transfer, or disseminate criminal justice information maintained by criminal justice agencies.

(2) "Administration of criminal justice" means the performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the collection, storage, and dissemination of criminal justice information.

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(3) "Confidential criminal justice information" means:

(a) criminal investigative information;

(b) criminal intelligence information;

(c) fingerprints and photographs;

(d) criminal justice information or records made confidential by law; and

(e) any other criminal justice information not clearly defined as public criminal justice information.

(4) (a) "Criminal history record information" means information about individuals collected by criminal justice agencies consisting of identifiable descriptions and notations of arrests; detentions; the filing of complaints, indictments, or informations and dispositions arising therefrom; sentences; correctional status; and release. It includes identification information, such as fingerprint records or photographs, unless the information is obtained for purposes other than the administration of criminal justice.

(b) Criminal history record information does not include:

(i) records of traffic offenses maintained by the department of justice; or

(ii) court records.

(5) (a) "Criminal intelligence information" means information associated with an identifiable individual, group, organization, or event compiled by a criminal justice agency:

(i) in the course of conducting an investigation relating to a major criminal conspiracy, projecting potential criminal operation, or producing an estimate of future major criminal

activities; or

(ii) in relation to the reliability of information, including information derived from reports of informants or investigators or from any type of surveillance.

(b) Criminal intelligence information does not include information relating to political surveillance or criminal investigative information.

(6) (a) "Criminal investigative information" means information associated with an individual, group, organization, or event compiled by a criminal justice agency in the course of conducting an investigation of a crime or crimes. It includes information about a crime or crimes derived from reports of informants or investigators or from any type of surveillance.

(b) The term does not include criminal intelligence information.

(7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

(b) any federal, state, or local government agency designated by statute or by a governor's executive order to perform as its principal function the administration of criminal justice, including a governmental fire agency, organized under Title 7, chapter 33, or fire marshal that conducts criminal investigations of fires;

(c) any local government agency not included under subsection (7)(b) that performs as its principal function the administration of criminal justice pursuant to an ordinance or local executive order; or

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(d) any agency of a foreign nation that has been designated by that nation's law or chief executive officer to perform as its principal function the administration of criminal justice and that has been approved for the receipt of criminal justice information by the Montana attorney general, who may consult with the United States department of justice.

(8) (a) "Criminal justice information" means information relating to criminal justice collected, processed, or preserved by a criminal justice agency.

(b) The term does not include the administrative records of a criminal justice agency.

(9) "Criminal justice information system" means a system, automated or manual, operated by foreign, federal, regional, state, or local governments or governmental organizations for collecting, processing, preserving, or disseminating criminal justice information. It includes equipment, facilities, procedures, and agreements.

(10) (a) "Disposition" means information disclosing that criminal proceedings against an individual have terminated and describing the nature of the termination or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of appellate or collateral review of criminal proceedings, or executive clemency. Criminal proceedings have terminated if a decision has been made not to bring charges or criminal proceedings have been concluded, abandoned, or indefinitely postponed.

(b) Particular dispositions include but are not limited to:

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- (i) conviction at trial or on a plea of guilty;
- (ii) acquittal;
- (iii) acquittal by reason of mental disease or defect;
- (iv) acquittal by reason of mental incompetence;
- (v) the sentence imposed, including all conditions attached to the sentence by the sentencing judge;
- (vi) deferred imposition of sentence with any conditions of deferral;
- (vii) nolle prosequi;
- (viii) a nolo contendere plea;
- (ix) deferred prosecution or diversion;
- (x) bond forfeiture;
- (xi) death;
- (xii) release as a result of a successful collateral attack;
- (xiii) dismissal of criminal proceedings by the court with or without the commencement of a civil action for determination of mental incompetence or mental illness;
- (xiv) a finding of civil incompetence or mental illness;
- (xv) exercise of executive clemency;
- (xvi) correctional placement on probation or parole or release; or
- (xvii) revocation of probation or parole.

(c) A single arrest of an individual may result in more than one disposition.

(11) "Dissemination" means the communication or transfer of criminal justice information to individuals or agencies other than the criminal justice agency that maintains the information.

It includes confirmation of the existence or nonexistence of criminal justice information.

(12) "Fingerprints" means the recorded friction ridge skin of the fingers, palms, or soles of the feet.

(13) "Public criminal justice information" means:

- (a) information made public by law;
- (b) information of court records and proceedings;
- (c) information of convictions, deferred sentences, and deferred prosecutions;
- (d) information of postconviction proceedings and status;
- (e) information originated by a criminal justice agency, including:
 - (i) initial offense reports;
 - (ii) initial arrest records;
 - (iii) bail records; and
 - (iv) daily jail occupancy rosters;
 - (f) information considered necessary by a criminal justice agency to secure public assistance in the apprehension of a suspect; or
 - (g) statistical information.

(14) "State repository" means the recordkeeping systems maintained by the department of justice pursuant to 44-2-201 in which criminal history record information is collected, processed, preserved, and disseminated.

(15) "Statistical information" means data derived from records in which individuals are not identified or identification is deleted and from which neither individual identity nor any

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other unique characteristic that could identify an individual is ascertainable."

{ *Internal References to 44-5-103:*

22-3-807	23-5-115	23-5-116	30-10-304
33-1-311	33-1-409	33-1-1203	33-2-1116
37-1-307	37-1-413	46-4-112	46-18-204
46-23-508	46-23-508	46-24-220	53-1-108
53-2-501	53-6-156	61-11-105	61-11-510 }

Section 11. Section 44-5-303, MCA, is amended to read:

"44-5-303. Dissemination of confidential criminal justice information -- procedure for dissemination through court. (1)

Except as provided in subsections (2) through (4), dissemination of confidential criminal justice information is restricted to criminal justice agencies, to those authorized by law to receive it, and to those authorized to receive it by a district court upon a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure. Permissible dissemination of confidential criminal justice information under this subsection includes receiving investigative information from and sharing investigative information with a fire service chief of a governmental fire agency, organized under Title 7, chapter 33, or fire marshal concerning the criminal investigation of a fire.

(2) If the prosecutor determines that dissemination of confidential criminal justice information would not jeopardize a pending investigation or other criminal proceeding, the information may be disseminated to a victim of the offense by the prosecutor or by the investigating law enforcement agency after

consultation with the prosecutor.

(3) Unless otherwise ordered by a court, a person or criminal justice agency that accepts confidential criminal justice information assumes equal responsibility for the security of the information with the originating agency. Whenever confidential criminal justice information is disseminated, it must be designated as confidential.

(4) The county attorney or the county attorney's designee is authorized to receive confidential criminal justice information for the purpose of cooperating with local fetal, infant, and child mortality review teams. The county attorney or the county attorney's designee may, in that person's discretion, disclose information determined necessary to the goals of the review team. The review team and the county attorney or the designee shall maintain the confidentiality of the information.

(5) (a) If a prosecutor receives a written request for release of confidential criminal justice information relating to a criminal investigation that has been terminated by declination of prosecution or relating to a criminal prosecution that has been completed by entry of judgment, dismissal, or acquittal, the prosecutor may file a declaratory judgment action with the district court pursuant to the provisions of the Uniform Declaratory Judgments Act, Title 27, chapter 8, for release of the information. The prosecutor shall:

(i) file the action in the name of the city or county that the prosecutor represents and describe the city's or county's interest;

(ii) list as defendants anyone known to the prosecutor who has requested the confidential criminal justice information and anyone affected by release of the information;

(iii) request that the prosecutor be allowed to deposit the investigative file and any edited version of the file with the court pursuant to the provisions of Title 27, chapter 8;

(iv) request the court to:

(A) conduct an in camera review of the confidential criminal justice information to determine whether the demands of individual privacy do not clearly exceed the merits of public disclosure; and

(B) order the release to the requesting party defendant of whatever portion of the investigative information or edited version of the information the court determines appropriate.

(b) In making an order authorizing the release of information under subsection (5) (a), the court shall make a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure and authorize, upon payment of reasonable reproduction costs, the release of appropriate portions of the edited or complete confidential criminal justice information to persons who request the information.

(c) In an action filed for the court-ordered release of confidential criminal justice information under subsection (5) (a), the parties shall bear their respective costs and attorney fees.

(6) The procedures set forth in subsection (5) are not an

exclusive remedy. A person or organization may file any action for dissemination of information that the person or organization considers appropriate and permissible."

{ *Internal References to 44-5-303:*

22-3-807

33-1-1203

46-4-112

50-19-402

50-19-403 }

Section 12. Section 46-18-261, MCA, is amended to read:

"46-18-261. Recovery of suppression and investigation expenses for fires caused by arson. (1) A person convicted of arson, negligent arson, or solicitation of or conspiracy to commit arson or negligent arson may be ordered, as part of the sentence, to reimburse law enforcement and ~~firefighting~~ governmental fire agencies for the cost of suppressing and investigating a fire that occurred during the commission of the crime.

(2) The court may order a person doing a presentence investigation and report to include documentation of the costs of suppressing and investigating the fire and of the defendant's ability to pay and may receive evidence concerning the matters at the time of sentencing.

(3) The court shall specify the amount, method, and time of payment, which may include but is not limited to installment payments. The court may order a probation officer or other appropriate officer attached to or working closely with the court in the administration of justice to supervise payment and report any default to the court.

(4) Upon petition by the offender and after a hearing, the

payment may be modified. Agencies receiving payment at that time must be notified of and allowed to participate in the hearing.

(5) This section does not limit the right of a law enforcement or ~~firefighting~~ governmental fire agency to recover from the offender in a civil action, but the findings in the sentencing hearing and the fact that payment of costs was part of the sentence are inadmissible in and have no legal effect on the merits of a civil action. Costs paid by the offender must be deducted from a recovery awarded in a civil action.

(6) As used in this section, "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33."

{Internal References to 46-18-261: None.}

Section 13. Section 50-3-101, MCA, is amended to read:

"50-3-101. Definitions. In this chapter, "department" means the department of justice and "fire prevention and investigation ~~program~~ section" means the state fire prevention and investigation ~~program~~ section of the department of justice provided for in 2-15-2005."

{Internal References to 50-3-101: None.}

Section 14. Section 50-3-102, MCA, is amended to read:

"50-3-102. Powers and duties of department regarding state fire prevention and investigation -- rules. (1) For the purpose of reducing the state's fire loss, the department shall:

(a) inspect each unit of the Montana university system and

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other state buildings, including state institutions, as often as duties allow, but no more frequently than once each year unless requested by the commissioner of higher education for buildings in the university system, by the department of corrections or the department of public health and human services for state institutions, or by the department of administration for all other state buildings. A copy of the inspection report for units of the university system must be given to the commissioner of higher education, a copy of the inspection report for state institutions must be given to the department of corrections and the department of public health and human services, and a copy of the inspection report for all other state buildings must be given to the department of administration. The department of justice shall advise the commissioner of higher education and the directors of the departments of corrections, public health and human services, and administration concerning fire prevention, fire protection, and public safety when it distributes the reports.

(b) inspect public, business, or industrial buildings, as provided in chapter 61, and require conformance to law and rules promulgated under the provisions of this chapter;

(c) ~~assist local fire and law enforcement authorities~~ governmental fire agencies in ~~arson~~ fire investigations and may initiate or supervise these investigations when, in its judgment, the initiation or supervision is necessary;

(d) provide fire prevention and fire protection information to public officials and the general public;

(e) serve as the state entity primarily responsible for promoting fire safety at the state level;

(f) encourage coordination of all services and agencies in fire prevention matters to reduce duplication and fill voids in services; and

(g) establish rules concerning responsibilities and procedures to be followed when there is a threat of explosive material in a building housing state offices.

(2) The department may adopt rules necessary for safeguarding life and property from the hazards of fire and carrying into effect the fire prevention laws of this state.

(3) The department shall adopt rules based on nationally recognized standards necessary for safeguarding life and property from the hazards associated with the manufacture, transportation, storage, sale, and use of explosive materials.

(4) If necessary to safeguard life and property under rules promulgated pursuant to this section, the department may maintain an action to enjoin the use of all or a portion of a building or restrain a specific activity until there is compliance with the rules.

(5) Except for statements of witnesses given during an investigation, information that may be held in confidence under 50-63-403, and criminal justice information subject to restrictions on dissemination in accordance with Title 44, chapter 5, all records maintained by the department must be open at all times to public inspection."

{*Internal References to 50-3-102:*

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45-8-332 50-3-103 50-61-102 }

Section 15. Section 50-3-106, MCA, is amended to read:

"50-3-106. Appointment of special fire inspectors. ~~(1)~~
Special fire inspectors may be appointed to perform any function of the fire prevention and investigation program.

~~(2) When performing these duties or attending a training course approved by the department, special fire inspectors may be paid at a rate not to exceed \$56 a day plus travel expenses as provided for in 2-18-501 through 2-18-503, as amended."~~

{ *Internal References to 50-3-106: None.* }

Section 16. Section 50-5-215, MCA, is amended to read:

"50-5-215. Standards for adult foster care homes. The department may adopt rules establishing standards for the licensing of adult foster care homes. The standards must provide for the safety and comfort of the residents and may be adopted by the department only after receiving the advice and recommendations of the state fire prevention and investigation program section of the department of justice in relation to fire and safety requirements for adult foster care homes."

{ *Internal References to 50-5-215: None.* }

Section 17. Section 50-19-403, MCA, is amended to read:

"50-19-403. Local fetal, infant, and child mortality review team. (1) A local fetal, infant, and child mortality review team must be approved by the department of public health and human

services. Approval may be given if:

(a) the county health department, a tribal health department, if the tribal government agrees, or both are represented on the team and the plan provided for in subsection (1)(d) includes the roles of the county health department, tribal health department, or both;

(b) a lead person has been designated for the purposes of management of the review team;

(c) at least five of the individuals listed in subsection (2) have agreed to serve on the review team; and

(d) a plan has been developed by the team that includes, at a minimum, operating policies of the review team covering collection and destruction of information obtained pursuant to 44-5-303(4) or 50-19-402(2).

(2) If a local fetal, infant, and child mortality review team is established, the team must be multidisciplinary and may include only:

(a) the county attorney or a designee;

(b) a law enforcement officer;

(c) the medical examiner or coroner for the jurisdiction;

(d) a physician;

(e) a school district representative;

(f) a representative of the local health department;

(g) a representative from a tribal health department, appointed by the tribal government;

(h) a representative from a neighboring county or tribal government if there is an agreement to review deaths for that

county or tribe;

(i) a representative of the department of public health and human services;

(j) a forensic pathologist;

(k) a pediatrician;

(l) a family practice physician;

(m) an obstetrician;

(n) a nurse practitioner;

(o) a public health nurse;

(p) a mental health professional;

(q) a local trauma coordinator;

(r) a representative of the bureau of Indian affairs or the Indian health service, or both, who is located within the county; and

(s) representatives of the following:

(i) local emergency medical services;

(ii) a local hospital;

(iii) a local hospital medical records department;

(iv) a local governmental fire department agency, organized under Title 7, chapter 33; and

(v) the local registrar.

(3) The designated lead person for the team shall submit membership lists to the department of public health and human services annually."

{*Internal References to 50-19-403: None.*}

Section 18. Section 50-37-107, MCA, is amended to read:

"50-37-107. Supervised public display of fireworks

authorized. (1) The state fire prevention and investigation ~~program~~ section of the department of justice or the governing body of a city, town, or county may, under reasonable rules adopted by them, grant permits for supervised public displays of fireworks to be held by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.

(2) Each display ~~shall~~ must:

(a) be handled by a competent operator, who must be approved by the state fire prevention and investigation ~~program~~ section or the governing body of the city, town, or county in which the display is to be held; and

(b) be located, discharged, or fired as, in the opinion of the state fire prevention and investigation ~~program~~ section, or the chief of the ~~fire department~~ local governmental fire agency, organized under Title 7, chapter 33, or other officer designated by the governing body of the city, town, or county after proper inspection, not to be hazardous to persons or property.

(3) Application for permits ~~shall~~ must be made in writing at least 15 days prior to the date of the display.

(4) After the privilege has been granted, sales, possession, use, and distribution of fireworks for the display are lawful for that purpose only.

(5) ~~No~~ A permit granted under this section is not transferable."

{*Internal References to 50-37-107:*

50-37-102 }

Section 19. Section 50-37-108, MCA, is amended to read:

"50-37-108. General liability insurance required for public display. The state fire prevention and investigation ~~program~~ section or the governing body of the city, town, or county shall require a person planning a public display of fireworks to provide proof of general liability insurance in a reasonable amount as determined by rules adopted by the department of justice."

{*Internal References to 50-37-108: None.*}

Section 20. Section 50-37-109, MCA, is amended to read:

"50-37-109. Confiscation. A representative of the state fire prevention and investigation ~~program~~ section or any sheriff, police officer, ~~or constable,~~ officer of a governmental fire agency, organized under Title 7, chapter 33, or firewarden shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter."

{*Internal References to 50-37-109: None.*}

Section 21. Section 50-60-202, MCA, is amended to read:

"50-60-202. Department to be sole state agency to promulgate building regulations -- exception. No state agency except the department may promulgate building regulations as defined in 50-60-101, except the department of justice may

promulgate regulations relating to use of buildings and installation of equipment. The state fire prevention and investigation ~~program~~ section of the department of justice shall review building plans and regulations for conformity with rules promulgated by the department."

{*Internal References to 50-60-202: None.*}

Section 22. Section 50-61-102, MCA, is amended to read:

"50-61-102. Department of justice to administer chapter.

(1) The department of justice has general charge and supervision of the enforcement of this chapter, and the officers enumerated in 50-61-114 shall act under its general charge and supervision, shall assist the department in giving effect to this chapter, and are subject to its direction and the rules adopted under 50-3-102 and 50-3-103 for the enforcement of 50-61-120 and 50-61-121 and this chapter.

(2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality, ~~district, or fire service area~~ or governmental fire agency, the department may ~~certify~~ approve a municipal, ~~district, or fire service area~~ or fire agency fire inspection program for local enforcement.

(3) The fire code adopted by municipalities under 7-5-108 and 7-5-4202 and governmental fire agencies must be the same fire code that is adopted by the department of justice under this chapter. Each time the department of justice modifies the fire codes, municipalities and governmental fire agencies shall modify their codes to conform with the department's codes within 180

days of the department's modification."

{ Internal References to 50-61-102:
7-33-2402 }

NEW SECTION. **Section 23. Definition.** For the purposes of this chapter [Title 50, chapter 61], chapter 62, and chapter 63, "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33.

Section 24. Section 50-61-114, MCA, is amended to read:

"50-61-114. Fire chief and fire inspector to make inspections. For the purpose of examining the premises for violations of this chapter and rules adopted under 50-3-103 for the enforcement of this chapter, the chief or fire inspector of the ~~fire department of each municipality, district, or fire service area~~ governmental fire agency, when a fire inspection program is established, or a fire inspector of the department of justice, when a fire inspection program does not exist:

(1) shall enter into school buildings at least once each 18 months; and

(2) may enter into all other buildings and upon all other premises within the jurisdiction, according to priority schedules established by the department for conducting inspections of buildings and premises."

{ Internal References to 50-61-114:
50-61-102 }

Section 25. Section 50-61-115, MCA, is amended to read:

"50-61-115. Notice of violations. (1) When a building is found that is not in compliance with fire safety rules promulgated by the department of justice, the person making the inspection or the department shall serve a written notice upon the party whose duty it is to maintain the safety of the building.

(2) The notice must specify the time within which the defective conditions must be remedied, ~~which may not be more than 90 days.~~

(3) The notice is served if delivered to the person to be notified, if left with any adult person at the usual residence or place of business of the person to be notified, or if deposited in the post office directed to the last-known address of the person to be notified. Whenever buildings are managed and controlled by a board of trustees, board of commissioners, or other governing body, the notice is served if delivered to the president, secretary, or treasurer of the board of trustees, board of commissioners, or other governing body."

{*Internal References to 50-61-115: None.*}

Section 26. Section 50-61-121, MCA, is amended to read:

"50-61-121. Restrictions on storage of smokeless powder and small arms primers. (1) A retail establishment may stock up to 400 pounds of smokeless powder on the premises of a building with a sprinkler system or 200 pounds on the premises of a building without a sprinkler system if storage of this stock conforms to the following conditions:

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(a) no more than 20 pounds are on display in a customer service area;

(b) the storage area is clearly posted as off limits to customers;

(c) the storage area is clearly posted prohibiting smoking or any open flame or sparks; and

(d) the storage area is a room designed and constructed to restrict smoke travel that is separate from the customer service area, that has a self-closing entrance door, and that conforms to one of the following:

(i) It is constructed of material sufficient to achieve a 1-hour fire resistant-rated barrier between the storage area and the customer service area. The smokeless powder must be stored in cabinets made of wood or equivalent material that is at least 1 inch thick, and each cabinet must contain no more than 200 pounds of smokeless powder. Cabinets must be separated by 25 feet.

(ii) It is protected by a fire suppression sprinkler system approved by the state fire prevention and investigation ~~program~~ section of the department of justice or a ~~fire marshal of the local jurisdiction~~ chief of a local governmental fire agency or the chief's designee, and the storage area has cabinets as provided for in subsection (1)(d)(i).

(iii) Smokeless powder stock is contained in a cabinet with casters and constructed of wood at least 1 inch thick that is covered on all sides with 5/8-inch sheetrock.

(2) A retail establishment may stock up to 250,000 small arms primers if storage of this stock conforms to the following

conditions:

(a) no more than 20,000 primers in a building with a sprinkler system or 10,000 primers in a building without a sprinkler system are on display in a customer service area;

(b) the storage area must conform to the conditions imposed in subsections (1)(a) through (1)(d), except that no more than 125,000 small arms primers may be stored in one cabinet, and the minimum required separation between cabinets is 15 feet; and

(c) small arms primers are retained in packaging approved by the U.S. department of transportation."

{ Internal References to 50-61-121:
50-61-102 50-61-120 }

Section 27. Section 50-62-101, MCA, is amended to read:

"50-62-101. Entering of buildings for purpose of examination authorized. ~~The officers~~ An officer of the state fire prevention and investigation ~~program~~ section of the department of justice or the chief of the ~~fire department of each municipality or district~~ a local governmental fire agency or the chief's designee where a fire ~~department~~ agency is established at all reasonable hours may, as authorized by law, enter into all buildings and upon all premises within ~~his~~ the officer's, chief's, or designee's jurisdiction for the purpose of determining whether the building or premises conforms to laws and rules relating to fire hazards and fire safety."

{ Internal References to 50-62-101:
50-62-102 50-62-102 50-62-103 50-62-104
50-62-106 50-62-107 50-62-107 }

Section 28. Section 50-62-102, MCA, is amended to read:

"50-62-102. Structures or conditions creating fire hazard a public nuisance -- order to remedy. (1) ~~If any building or other structure that for want of proper repair; by reason of age, dilapidated condition, defective or poorly installed wiring and equipment, defective chimneys, defective gas connections, defective heating apparatus, or the existence of any combustible materials, flammable conditions, or other fire hazards; or for any other cause or reason is especially liable to fire and is dangerous to the safety of the building premises or to the public or is so situated as to endanger other buildings and property in the vicinity, the~~ The state fire prevention and investigation program section of the department of justice, an officer of the section, or other officer person identified in 50-62-101 may declare ~~the~~ a building or other structure to be a public nuisance and proceed according to 50-62-103 or subsection (2) of this section if the state fire prevention and investigation section, officer of the section, or other person finds that the building or structure is especially susceptible to fire and is dangerous to the safety of the building premises or to the public, or is located in a way that a fire would endanger other buildings or property in the vicinity.

(2) If the state fire prevention and investigation program section, an officer of the program section, or ~~an officer mentioned~~ a person identified in 50-62-101 determines that a building or other structure constitutes a public nuisance for any

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reason identified in subsection (1), the department section, officer, or other officer person shall order the hazardous condition or material to be removed or remedied. The order must be in writing and directed generally to the owner, lessee, agent, or occupant of the building or structure.

(3) If the hazardous condition or material can be removed or remedied within a period of 24 hours, the order must contain notice that the condition or material must be remedied or removed. The owner, lessee, agent, or occupant upon whom the notice is served who fails to comply with the notice is liable for any expenses incurred in the removal or remedying of the hazardous condition or material by the fire prevention and investigation program section, officer of the section, or other officer mentioned person identified in 50-62-101."

{ *Internal References to 50-62-102:*
50-62-103 50-78-301 }

Section 29. Section 50-62-103, MCA, is amended to read:

"50-62-103. Service of order to repair hazardous condition or demolish structure. (1) If the fire prevention and investigation program section of the department of justice, an officer of the section, or any officer mentioned other person identified in 50-62-101, upon an examination or inspection, determines that a building or other structure constitutes a public nuisance for any reason identified in 50-62-102 and the condition cannot be removed or remedied within 24 hours, the program section, or officer, or person shall order the hazardous

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condition to be repaired or the structure to be torn down or demolished and all dangerous conditions remedied.

(2) The order ~~shall~~ must be in writing, ~~shall recite~~ must provide the grounds ~~therefor~~ for the order, and ~~shall~~ must be filed in the office of the clerk of the district court of the county in which the building or structure ordered to be altered, repaired, or demolished is ~~situated, and thereupon all~~ located. All further proceedings for the enforcement thereof ~~shall be had in that court~~ of the order must be held in the district court in which the order is filed.

(3) A copy of the order filed as ~~aforesaid~~ provided in this section, together with a written notice that it has been filed and will be put in force unless the owner, occupant, or tenant ~~shall file~~ files objections or an answer to the order with the clerk of the court ~~his objections or answer thereto~~ within the time specified in 50-62-104, ~~shall~~ must be served upon the owner and any purchaser under contract for deed of the building or structure directed to be altered, repaired, or demolished. If there is a tenant occupying the building, service ~~shall~~ must also be made upon ~~him~~ the tenant. Service ~~shall~~ must be made personally upon the owner and occupant, if there is one, ~~personally either within or without the state~~.

(4) If the whereabouts of the owner or any purchaser under contract for deed is unknown and cannot be ascertained by the department of justice by the exercise of reasonable diligence, then upon filing in the office of the clerk of the district court an affidavit to this effect, service of the notice upon the owner

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or any purchaser under contract for deed may be made by the clerk of the district court by publication of it once in each week for 3 successive weeks in a newspaper printed and published in the county in which the building or structure is located and by posting a copy thereof of the notice in a conspicuous place upon the building or structure, and the service ~~so~~ made in this manner is complete upon the expiration of the publication period. Proof of service of the notice ~~shall~~ must be filed in the office of the clerk of the district court within 5 days after the service thereof of the notice."

{ *Internal References to 50-62-103:*
50-62-102 }

Section 30. Section 50-62-112, MCA, is amended to read:

"50-62-112. Notice of violations. (1) When the storage of class I or class II liquids, as defined in the ~~uniform~~ fire code adopted by the department of justice, in a tank on a farm or ranch is not in compliance with rules promulgated by the department of justice, the person making the inspection or the department shall serve a written warning notice upon the owner or operator of the tank.

(2) The notice must specify the violations found and the time within which the violations must be corrected. A penalty may not be imposed if the violation is corrected within the time period allowed."

{ *Internal References to 50-62-112: None.* }

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Section 31. Section 50-63-102, MCA, is amended to read:

"50-63-102. ~~Penalty~~ Civil penalty for setting or leaving fire causing damage. (1) Any A person who shall upon any land within this state set or leave any sets or leaves fire that shall spread and damage or destroy spreads and damages or destroys property of any kind not his own shall upon conviction be punished by a fine belonging to the person is subject to a civil penalty of not less than \$10 \$50 or more than \$500. If such fire be set maliciously, whether on his own or on another's land, with intent to destroy property not his own, he shall be guilty of a felony and shall be punished by imprisonment in the state penitentiary for not less than 1 or more than 50 years.

(2) ~~During the closed season, any person who shall kindle a campfire on land not his own in or dangerously near any forest material and leave same unquenched or who shall be a party thereto or who shall by throwing away any lighted cigar, cigarette, matches, or by the use of firearms or in any other manner start a fire in forest material not his own and leave same unquenched shall, upon conviction, be fined not less than \$10 or more than \$100 or be imprisoned in the county jail not exceeding 60 days."~~

{*Internal References to 50-63-102: None.*}

Section 32. Section 50-63-103, MCA, is amended to read:

"50-63-103. Liability of offender for damages and costs. Any A person who shall upon any land within this state, whether on his own or on another's land, set sets or leave any leaves a

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fire that ~~shall spread and damage or destroy~~ spreads and damages
or destroys property of any kind ~~not his own shall be not~~
belonging to the person is liable for all damages caused thereby
by the fire, and any owner of property damaged or destroyed by
such the fire may maintain a civil suit for the purpose of
recovering such damages. Any A person who ~~shall upon any land~~
~~within this state, whether on his own or on another's land, set~~
~~sets or leave any~~ leaves a fire which that threatens to spread
and damage or destroy property ~~shall be~~ is liable for all costs
and expenses incurred, including, but not limited to, expenses
incurred in investigation of the fire and administration of fire
suppression, by the state of Montana, by any forestry
association, or by any person extinguishing or preventing the
spread of such the fire."

{Internal References to 50-63-103: None.}

Section 33. Section 50-63-202, MCA, is amended to read:

"50-63-202. Fire chief or sheriff to conduct investigation.

If the fire occurs within a municipality, organized fire
district, or fire service area, the chief of the governmental
fire department agency having jurisdiction or the chief's
designee shall make the investigation. If the fire occurs outside
a municipality, organized fire district, or fire service area,
the county sheriff shall make the investigation or ensure that an
investigation is completed."

{Internal References to 50-63-202: None.}

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Section 34. Section 50-63-203, MCA, is amended to read:

**"50-63-203. Notification to department of justice --
reports to be filed.** (1) If it appears that a fire was of suspicious origin, if there was a loss of human life, or if it is determined that a criminal investigation is necessary, the official responsible for the investigation shall notify the department of justice and the appropriate law enforcement agency within 24 hours and shall file a written report of the cause with the department within 10 days.

(2) If the property was insured, as soon as any adjustment has been made, a person representing the insurance company shall notify the department of justice of the amount of adjustment and the apparent cause and circumstances of the fire.

(3) Each official responsible for investigating fires shall file a fire incident report on each fire with the department. Reports must be on forms and must contain information prescribed by the department. These reports must be sent to the department on a monthly basis or at intervals determined necessary by the department."

{*Internal References to 50-63-203: None.*}

Section 35. Section 50-63-401, MCA, is amended to read:

"50-63-401. Insurer to provide information regarding fire loss to certain agencies upon request. Each insurer engaged in issuing fire insurance policies in the state of Montana shall upon written request of any appropriate law enforcement or governmental fire ~~protection~~ agency release to the requesting

agency all information in its possession relating to a fire loss of real or personal property. The information may include but is not limited to:

- (1) any insurance policy relevant to the fire loss under investigation and any application for such a policy;
- (2) premium payment records;
- (3) the history of previous claims made by the insured for fire loss;
- (4) material relating to the investigation of the loss, including statements of any person, proof of loss, and other relevant evidence."

{ Internal References to 50-63-401:
50-63-403 50-63-405 }

Section 36. Section 50-63-402, MCA, is amended to read:

"50-63-402. Insurer to report suspicious fires. Whenever an insurer has reason to believe that a fire loss in which it has an interest may be of other than accidental cause, it shall notify an appropriate law enforcement or governmental fire protection agency and provide ~~such~~ the agency with all material developed from its inquiry into the fire loss."

{ Internal References to 50-63-402:
50-63-403 50-63-405 }

Section 37. Section 50-63-404, MCA, is amended to read:

"50-63-404. Testimony of agency personnel in action to recover under insurance policy. Law enforcement and governmental fire protection agency personnel may be required to testify as to

any information in their possession regarding the fire loss of real or personal property in any civil action in which a person seeks recovery from an insurer under a policy for the fire loss."

{*Internal References to 50-63-404: None.*}

Section 38. Section 50-78-102, MCA, is amended to read:

"50-78-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Chemical manufacturer" means an employer in codes 31 through 33, as defined in the North American Industry Classification System Manual, with a workplace where chemicals are produced for use or distribution.

(2) "Chemical name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the international union of pure and applied chemistry or the chemical abstracts service rules of nomenclature or a name that will clearly identify the chemical for the purpose of conducting a hazard evaluation.

(3) "Common name" means any designation or identification, such as code name, code number, trade name, brand name, or generic name, used to identify a chemical other than by its chemical name.

(4) "Department" means the department of environmental quality provided for in Title 2, chapter 15, part 35.

(5) "Designated representative" means:

(a) the individual or organization to whom an employee gives written authorization to exercise the employee's rights

under this chapter; or

(b) a recognized or certified collective bargaining agent who is automatically a designated representative without regard to written employee authorization.

(6) "Distributor" means a business, other than a chemical manufacturer, that supplies hazardous chemicals to other distributors or to employers.

(7) "Employee" means a person who may be exposed to hazardous chemicals in the workplace under normal operating conditions or possible emergencies.

(8) "Employer" means a person, firm, corporation, partnership, association, governmental agency, or other entity that is engaged in business or providing services and that employs workers.

(9) "Exposure" means ingestion, inhalation, absorption, or other contact in the workplace with a hazardous chemical and includes potential, accidental, or possible exposure.

(10) "Hazardous chemical" means, except as provided in 50-78-103:

(a) any element, chemical compound, or mixture of elements or compounds that is a physical hazard or health hazard, as defined by subsection (c) of the OSHA standard, and that has been identified as such by the federal occupational safety and health administration or the manufacturer and has been filed with the federal occupational safety and health administration;

(b) any hazardous chemical, as defined by subsection (d)(3) of the OSHA standard; or

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(c) any emitter of ionizing radiation.

(11) "Label" means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

(12) "Local fire chief" means:

~~(a) the chief of the municipal fire department or the chief's agent, for any workplace located within a city or town, or~~

~~(b) the county rural fire chief or the district rural fire chief or the chief's agent, for any workplace not located within a city or town~~ local governmental fire agency as that term is defined in [section 23] or the chief's designee.

(13) "Manufacturing employer" means an employer with a workplace classified in codes 31 through 33 of the North American Industry Classification System who manufactures, uses, or stores a hazardous chemical.

(14) "Material safety data sheet" means a document prepared in accordance with the requirements of the OSHA standard and containing chemical hazard and safe handling information.

(15) "Nonmanufacturing employer" means an employer with a workplace classified in a North American Industry Classification System code other than 31 through 33.

(16) "OSHA standard" means the hazard communication standard issued by the federal occupational safety and health administration, codified under 29 CFR 1910.1200, as that statute reads on January 1, 1985.

(17) "Trade secret" means a confidential formula, pattern, process, device, or information, including chemical name or other

unique chemical identifier, that is used in an employer's business and that gives the employer an opportunity to obtain an advantage over competitors.

(18) "Work area" means a room or defined space in a workplace where hazardous chemicals are produced, used, or stored and where employees are present.

(19) "Workplace" means an establishment at one geographical location containing one or more work areas.

(20) "Workplace chemical list" means the list of hazardous chemicals developed under this chapter or under subsection (e) (1) (i) of the OSHA standard."

{*Internal References to 50-78-102: None.*}

Section 39. Section 52-2-733, MCA, is amended to read:

"52-2-733. Periodic visits to facilities by department -- investigations -- consultation with licensees and registrants.

(1) The department or its authorized representative shall make periodic visits to all licensed day-care centers to ensure that minimum standards are maintained.

(2) The department may investigate and inspect the conditions and qualifications of any day-care center, group day-care home, or family day-care home seeking or holding a license or registration certificate under the provisions of this part.

(3) The department shall visit and inspect at least 20% of all registered family day-care homes and group day-care homes in each of the governor's planning regions annually.

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(4) The department shall make annual unannounced visits to day-care centers.

(5) Upon request of the department, the state fire prevention and investigation ~~program~~ section of the department of justice shall inspect any day-care facility for which a license or registration certificate is applied for or issued and shall report its findings to the department.

(6) Upon request, the department shall give consultation to every licensee and registrant who desires to upgrade the services of the licensee's or registrant's program.

(7) This section may not be construed to require the department to conduct an inspection of each day-care facility applying for a registration certificate under the provisions of this part."

{*Internal References to 52-2-733: None.*}

Section 40. Section 52-2-734, MCA, is amended to read:

"52-2-734. Fire safety -- certification required. (1) The state fire prevention and investigation ~~program~~ section of the department of justice shall adopt and enforce rules for the protection of children in day-care centers from fire hazards and arrange for ~~such~~ any inspections and investigations ~~as~~ it considers necessary.

(2) Before a license can be issued to operate a day-care center, each applicant shall submit to the department a certificate of approval from the state fire prevention and investigation ~~program~~ section of the department of justice

indicating that fire safety rules have been met."

{ Internal References to 52-2-734:
52-2-724 }

Section 41. Section 52-4-205, MCA, is amended to read:

"52-4-205. Rulemaking. (1) The department shall, for the purpose of licensing, adopt rules to govern administration, operation, and health and safety requirements for community homes for persons with severe disabilities in order to protect rights of residents. The department shall provide for temporary and provisional licensing.

(2) The state fire prevention and investigation ~~program~~ section of the department of justice shall provide advice and recommendations to the department concerning licensing requirements for health and safety."

{ Internal References to 52-4-205:
52-4-201 52-4-202 53-19-102 }

Section 42. Section 53-20-307, MCA, is amended to read:

"53-20-307. Health and safety standards for licensing.

(1) (a) After initial certification by the state fire prevention and investigation ~~program~~ section of the department of justice, community homes must be certified annually for fire and life safety by the department of justice.

(b) The department of justice shall notify the department of public health and human services when a community home has been certified.

(2) (a) Local health officers shall certify community homes

for compliance with health and safety standards. If for any reason the local authority cannot complete the certification in a timely manner, the department of public health and human services is authorized to make the determination on certification.

(b) A reasonable fee may be charged to authorized parties as defined in 53-20-303 for the health and safety certification."

{*Internal References to 53-20-307: None.*}

Section 43. Section 61-8-102, MCA, is amended to read:

"61-8-102. Uniformity of interpretation -- definitions. (1) Interpretation of this chapter in this state must be as consistent as possible with the interpretation of similar laws in other states.

(2) As used in this chapter, unless the context requires otherwise, the following definitions apply:

(a) "Authorized emergency vehicle" means a vehicle of ~~the fire department or fire patrol~~ a governmental fire agency as that term is defined in [section 23], an ambulance, and an emergency vehicle designated or authorized by the department.

(b) "Bicycle" means:

(i) a vehicle propelled solely by human power upon which any person may ride and that has two tandem wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position, except scooters and similar devices; or

(ii) a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an independent power

source providing a maximum of 2 brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement may not exceed 3.05 cubic inches (50 centimeters) regardless of the number of chambers in the power source. The power source may not be capable of propelling the device, unassisted, at a speed exceeding 30 miles an hour (48.28 kilometers an hour) on a level surface. The device must be equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the drive system is engaged.

(c) "Business district" means the territory contiguous to and including a highway when within any 600 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

(d) "Controlled-access highway" means a highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or roadway except at the points and in the manner as determined by the public authority having jurisdiction over the highway, street, or roadway.

(e) "Crosswalk" means:

(i) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the

absence of curbs, from the edges of the traversable roadway;

(ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface.

(f) "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic upon a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person, except a uniformed traffic enforcement officer exercising the officer's duty as a result of a planned vehicular traffic hazard, must be equipped as required by the rules of the department of transportation.

(g) "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later dedicated to public use.

(h) "Ignition interlock device" means ignition equipment that:

(i) analyzes the breath to determine blood alcohol concentration;

(ii) is approved by the department pursuant to 61-8-441; and

(iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific amount of an alcoholic beverage.

(i) (i) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one another at or approximately at right angles or the area within which vehicles traveling upon

different highways joining at any other angle may come in conflict.

(ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting highways also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways must be regarded as a separate intersection.

(j) "Local authorities" means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.

(k) "Noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or combination of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and includes but is not limited to the vehicles listed in 61-1-101(7)(b).

(l) "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

(m) "Pedestrian" means any person on foot or any person in a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(n) "Police vehicle" means a vehicle used in the service of

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any law enforcement agency.

(o) "Private road" or "driveway" means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(p) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is primarily improved with residences or residences and buildings in use for business.

(q) "Right-of-way" means the privilege of the immediate use of the roadway.

(r) "School bus" has the meaning provided in 20-10-101.

(s) "Sidewalk" means that portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use by pedestrians.

(t) "Traffic control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(u) "Urban district" means the territory contiguous to and including any street that is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of one-fourth mile or more."

{ *Internal References to 61-8-102:*

15-6-219	33-23-204	45-5-205	61-1-101
61-1-101	61-1-101	61-8-380	61-8-605
61-9-102	61-9-102	61-9-102	61-9-103
61-9-402	61-9-406	61-9-415	61-10-123

61-12-101 61-12-101 }

Section 44. Section 61-8-364, MCA, is amended to read:

"61-8-364. Crossing firehose. A vehicle may not be operated over an unprotected hose of a governmental fire department agency, as that term is defined in [section 23], when the hose is laid down on any roadway, private road, or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department agency official in command."

{*Internal References to 61-8-364: None.*}

Section 45. Section 61-9-402, MCA, is amended to read:

"61-9-402. Audible and visual signals on police, emergency vehicles, and on-scene command vehicles -- immunity. (1) A police vehicle must be equipped with a siren capable of giving an audible signal and may be equipped with alternately flashing or rotating red or blue lights as specified in this section.

(2) An authorized emergency vehicle must be equipped:

(a) with a siren and an alternately flashing or rotating red light as specified in this section; and

(b) with signal lamps mounted as high and as widely spaced laterally as practicable that are capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight.

(3) A bus used for the transportation of school children

must be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, displaying to the front two red and two amber alternating flashing lights and to the rear two red and two amber alternating flashing lights. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. The warning lights must be as prescribed by the board of public education and approved by the department.

(4) A police vehicle and an authorized emergency vehicle may, and an emergency service vehicle must, be equipped with alternately flashing or rotating amber lights as specified in this section.

(5) The use of signal equipment as described in this section imposes upon the operators of other vehicles the obligation to yield right-of-way or to stop and to proceed past the signal or light only with caution and at a speed that is no greater than is reasonable and proper under the conditions existing at the point of operation subject to the provisions of 61-8-209 and 61-8-303.

(6) An employee, agent, or representative of the state or a political subdivision of the state or of a governmental fire department agency who is operating a police vehicle, an authorized emergency vehicle, or an emergency service vehicle and using signal equipment in rendering assistance at a highway crash scene or in response to any other hazard on the roadway that presents an immediate hazard or an emergency or life-threatening situation is not liable, except for willful misconduct, bad faith, or gross negligence, for injuries, costs, damages,

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expenses, or other liabilities resulting from a motorist operating a vehicle in violation of subsection (5).

(7) Blue, red, and amber lights required in this section must be mounted as high as and as widely spaced laterally as practicable and capable of displaying to the front two alternately flashing lights of the specified color located at the same level and to the rear two alternately flashing lights of the specified color located at the same level or one rotating light of the specified color, mounted as high as is practicable and visible from both the front and the rear. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. Except as provided in 61-9-204(6), only police vehicles as defined in 61-8-102 may display blue lights, lenses, or globes.

(8) A police vehicle and authorized emergency vehicle may be equipped with a flashing signal lamp that is green in color, visible from 360 degrees, and attached to the exterior roof of the vehicle for purposes of designation as the on-scene command and control vehicle in an emergency or disaster. The green light must have sufficient intensity to be visible at 500 feet in normal sunlight. Only the on-scene command and control vehicle may display green lights, lenses, or globes.

(9) Only a police vehicle or an authorized emergency vehicle may be equipped with the means to flash or alternate its headlamps or its backup lights.

(10) A violation of subsection (5) is considered reckless endangerment of a highway worker, as provided in 61-8-301(4), and

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is punishable as provided in 61-8-715."

{ Internal References to 61-9-402:

20-10-111	61-1-101	61-8-107	61-8-301
61-8-346	61-8-351	61-8-351	61-8-351
61-8-515	61-9-416	61-9-416	}

Section 46. Section 75-10-725, MCA, is amended to read:

"75-10-725. Immunity of volunteer fire company or department and employees for hazardous or deleterious substance cleanup. A ~~volunteer fire company or department that is organized by a municipality, county, rural fire district, fire service area, or other entity~~ governmental fire agency, as that term is defined in [section 23], and the employees of the ~~company or department~~ agency are not liable for civil damages, except damages for gross negligence or willful or wanton misconduct, for their acts or omissions that are directly related to the hazardous material incident."

{ Internal References to 75-10-725: None. }

NEW SECTION. Section 47. {standard} Codification instruction. [Section 23] is intended to be codified as an integral part of Title 50, chapter 61, part 1, and the provisions of Title 50, chapter 61, part 1, apply to [section 23].

- END -

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