

SENATE BILL NO. 561

INTRODUCED BY S. HINEBAUCH, B. LER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE PERMITTING OF VETERINARY RETAIL FACILITIES; PROVIDING FOR THE REGISTRATION OF VETERINARY DISPENSING TECHNICIANS; PROVIDING FOR CONTINUING EDUCATION REQUIREMENTS; PROVIDING DEFINITIONS; PROVIDING FOR AN APPLICATION AND PERMIT RENEWAL FEES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-7-103, 37-18-104, 50-32-401, AND 80-8-207, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Definitions.** As used in [sections 1 through 8], unless the context requires otherwise, the following definitions apply:

~~(1) "Board" means the board of pharmacy provided for in 2-15-1733.~~

~~(2) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device.~~

~~(3) "Controlled substance" means a substance designated in Schedules II through V of Title 50, chapter 32, part 2.~~

~~(4) "Dispensing" means the delivery of veterinary prescription drugs pursuant to the lawful order of a veterinarian licensed pursuant to 37-18-301 and the associated recordkeeping that is relevant to that practice.~~

~~(5)(1)~~ "Extralabel use" means the use of an approved drug in a manner that is not in accordance with the approved label directions.

~~(6)(2)~~ "Veterinary dispensing technician" means a nonpharmacist registered by the board of veterinary medicine to dispense veterinary prescription drugs in a veterinary retail facility.

~~(7)(3)~~ "Veterinary prescription drugs" means drugs that are to be used or prescribed by a veterinarian licensed pursuant to 37-18-301 to a client who is the owner or caretaker of the animal in need of treatment.

Veterinary prescription drugs are those drugs restricted by federal law to use by or on the order of a licensed

1 veterinarian.

2 ~~(8)(4)~~ "Veterinary retail facility" means an establishment registered by the board of pharmacy  
3 employing a registered veterinary dispensing technician authorized to dispense veterinary prescription drugs  
4 pursuant to bona fide orders of licensed veterinarians.

5  
6 NEW SECTION. Section 2. Exemptions. The provisions of [sections 1 through 8] do not apply to:

7 (1) a ~~licensed~~ veterinarian, a veterinary technician, or a veterinarian's practice; or

8 (2) a ~~licensed~~ pharmacist, a pharmacy technician, or a pharmacy.

9

10 NEW SECTION. Section 3. Veterinary retail facility -- ~~permit license~~ required. (1) A person,  
11 partnership, association, corporation, or limited liability company may not open, establish, operate, maintain, or  
12 do business as a veterinary retail facility without first obtaining a ~~permit license~~ from the board of pharmacy.

13 (2) The board of pharmacy shall prescribe the ~~permit license~~ application form.

14 (3) An application or renewal application must be accompanied by a fee ~~not to exceed \$300 set by~~  
15 board rule.

16 (4) A ~~permit license~~ must be renewed annually. ~~The board shall set the renewal fee not to exceed~~  
17 ~~\$300.~~

18 (5) Separate applications and separate permits are required for each veterinary retail facility  
19 opened, established, operated, or maintained by the same owner and for a change of location, name, or  
20 ownership of an existing veterinary retail facility.

21 (6) The board may adopt rules to implement this section.

22

23 NEW SECTION. Section 4. Standards of veterinary retail facilities. (1) Veterinary prescription  
24 drugs dispensed by a veterinary retail facility pursuant to a licensed veterinarian's prescription must be  
25 dispensed by a veterinary dispensing technician and are for use on livestock only, as defined in 81-2-702.

26 (2) An employee of a veterinary retail facility, including a veterinary dispensing technician, may not:

27 (a) dispense controlled substances;

28 (b) compound veterinary prescription drugs for the dispensing of a prescription;

(c) repackage veterinary prescription drugs for the dispensing of a prescription, except that a veterinary dispensing technician may break down case lots of veterinary prescription drugs if the seals on the individual containers are not broken;

(d) open a container and count out or measure out any quantity of a veterinary prescription drug; or

(e) dispense medication for extralabel use.

~~(3) — Veterinary prescription drugs returned to a veterinary retail facility from a client must be treated as damaged or outdated drugs. Returned drugs may not be returned to stock or dispensed, distributed, or resold.~~

~~(4) — A veterinary retail facility may dispense veterinary prescription drugs for use on livestock on the basis of a written, electronically transmitted, or oral order received from a licensed veterinarian or authorized agent of a licensed veterinarian.~~

~~(5) — A veterinary retail facility may refill a prescription only if the initial prescription is issued indicating that a specific number of refills are authorized. A prescription may not be refilled 12 or more months after the issuance date of the initial order.~~

~~(6) — A veterinary retail facility shall file or cause to be filed a prescription or copy of a prescription that has been dispensed by the veterinary retail facility. The prescription or copy of a prescription must be preserved for at least 3 years after it has been filled. A veterinary retail facility shall furnish a copy of any prescription to the party presenting it on the request of that party only.~~

~~(7) — Records of receipt and dispensing must be kept for 3 years and may be audited by the board.~~

~~(8) — (a) All veterinary prescription drugs must be properly labeled when dispensed.~~

~~(b) — A complete label must include the following information:~~

~~(i) — the name, address, and telephone number of the prescribing licensed veterinarian;~~

~~(ii) — the name of the client;~~

~~(iii) — identification of animals or herds treated;~~

~~(iv) — the date of treatment, prescription, or dispensing of the drug;~~

~~(v) — the name and quantity of the drug to be prescribed or dispensed;~~

~~(vi) — the dosage and duration directions for use;~~

(vii) ~~cautionary statements, as needed; and~~

(viii) ~~the expiration date.~~

(c) ~~If the information in subsection (8)(b) is already included on the manufacturer's label, it is unnecessary to repeat it on the prescription label. If there is inadequate space on the label for complete instructions, the veterinary dispensing technician shall provide additional information to accompany the drug dispensed or prescribed.~~

(9) ~~Veterinary prescription drugs must be stored separately from over-the-counter drugs. Drugs must be stored under conditions recommended by the manufacturer.~~

**NEW SECTION. Section 5. Veterinary dispensing technicians -- educational requirements. A**

veterinary retail facility may ~~employee~~ employ a veterinary dispensing technician who shall successfully complete:

(1) an academic program approved by the board of veterinary medicine; or

(2) a certification program approved by the board of veterinary medicine.

**NEW SECTION. Section 6. Veterinary dispensing technicians -- registration requirements. (1) A**

veterinary dispensing technician shall register with the board of veterinary medicine on an annual basis.

(2) ~~The board shall provide to each veterinary dispensing technician a registration number, an annual registration card, a registration certificate, and a pocket identification card.~~

(3)(2) The current veterinary dispensing technician ~~certificate and annual registration card license~~ must be conspicuously displayed and ~~visible to the public~~ in the veterinary retail facility where the veterinary dispensing technician is employed.

(4)(3) A veterinary dispensing technician shall wear a name badge while in the veterinary retail facility that clearly identifies the person as a veterinary dispensing technician.

(5)(4) A veterinary dispensing technician shall inform the board of a change in address or place of employment within 15 days after the change. The board shall subsequently adjust the board's records.

(6) ~~A registered veterinary dispensing technician may go on inactive status and continue to hold a certificate of registration provided the inactive technician does not practice within the state. A technician on~~

~~inactive status is not required to meet the continuing education requirements under [section 7]. A technician on inactive status shall complete 8 hours of approved continuing education to reactivate the registration.~~

~~(7)(5)~~ The board may adopt rules to implement this section.

~~**NEW SECTION. Section 7. Veterinary dispensing technician -- continuing education.** (1) Each registered veterinary dispensing technician shall complete no fewer than 8 hours of approved continuing education each year as a condition of registration renewal. At least 4 hours of continuing education must be approved by the board of pharmacy, and another 4 hours of continuing education must be approved by the board of veterinary medicine provided for in 2-15-1742.~~

~~(2) A veterinary dispensing technician shall maintain a record of continuing education on a form provided by the board of veterinary medicine. The records must be maintained for a 2-year period.~~

~~(3) The requirements of this section do not apply to a veterinary dispensing technician applying for a first renewal of registration.~~

~~(4) The board of pharmacy may grant a waiver to the requirements of this section on application by a registered veterinary dispensing technician.~~

~~(5) On request from the board of pharmacy, proof of compliance with this section must be furnished to the board of veterinary medicine.~~

~~(6) The board of veterinary medicine may adopt rules to implement this section.~~

**NEW SECTION. Section 8. Penalties for violations.** A person, partnership, association, corporation, or limited liability company violating the provisions of [sections 1 through 8] is guilty of a misdemeanor. On conviction for any violation of [sections 1 through 8], the board may revoke a permit or registration issued pursuant to [sections 1 through 8] or issue other disciplinary action pursuant to 37-1-136.

**Section 9.** Section 37-7-103, MCA, is amended to read:

**"37-7-103. Exemptions.** Subject only to 37-2-104, 37-7-401, and 37-7-402, and except as provided in [sections 1 through 8], this chapter does not:

(1) subject a medical practitioner, as defined in 37-2-101, or a person who is licensed in this state

1 to practice veterinary medicine to inspection by the board, prevent the person from compounding or using  
2 drugs, medicines, chemicals, or poisons in the person's practice, or prevent a medical practitioner from  
3 furnishing to a patient drugs, medicines, chemicals, or poisons that the person considers proper in the  
4 treatment of the patient;

5 (2) prevent the sale of drugs, medicines, chemicals, or poisons at wholesale;

6 (3) prevent the sale of drugs, chemicals, or poisons at either wholesale or retail for use for  
7 commercial purposes or in the arts;

8 (4) change any of the provisions of this code relating to the sale of insecticides and fungicides;

9 (5) prevent the sale of common household preparations and other drugs if the stores selling them  
10 are licensed under the terms of this chapter;

11 (6) apply to or interfere with manufacture, wholesaling, vending, or retailing of flavoring extracts,  
12 toilet articles, cosmetics, perfumes, spices, and other commonly used household articles of a chemical nature  
13 for use for nonmedicinal purposes;

14 (7) prevent a registered nurse employed by a family planning clinic under contract with the  
15 department of public health and human services from dispensing factory prepackaged contraceptives, other  
16 than mifepristone, if the dispensing is in accordance with a physician's written protocol specifying the  
17 circumstances under which dispensing is appropriate and is in accordance with the board's requirements for  
18 labeling, storage, and recordkeeping of drugs; or

19 (8) prevent a certified agency from possessing, or a certified euthanasia technician or support  
20 personnel under the supervision of the employing veterinarian from administering, any controlled substance  
21 authorized by the board of veterinary medicine for the purpose of euthanasia pursuant to Title 37, chapter 18,  
22 part 6."

23  
24 **Section 10.** Section 37-18-104, MCA, is amended to read:

25 **"37-18-104. (Temporary) Exemptions -- rules.** (1) This chapter does not apply to:

26 (a) a veterinarian in the performance of the veterinarian's official duties, either civil or military, in  
27 the service of the United States unless the veterinarian is engaged in the practice of veterinary medicine in a  
28 private capacity;

(b) laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of this state or the United States and engaged in labors in laboratories under the direct supervision of the board of livestock, Montana state university-Bozeman, or the United States;

(c) a veterinarian practicing in another state or country and authorized under the laws of that state or country to practice veterinary medicine, whose practice in this state is limited to an occasional case as that term is defined in board rule;

(d) the employment of a veterinary medical student who has successfully completed 3 years of the professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association, if the student is employed by and works under the immediate supervision of a veterinarian licensed and registered under this chapter; ~~or~~

(e) a person advising with respect to or performing acts that the board defines by rule as accepted livestock management practices; or

(f) a veterinary dispensing technician who is registered and subject to [sections 1 through 8].

(2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and swine are not the practice of veterinary medicine within the meaning of this chapter.

(3) Nonsurgical embryo transfers in bovines may be performed under the supervision of a veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo transfers in bovines must address:

- (a) minimum education requirements;
- (b) minimum requirements of practical experience;
- (c) continuing education requirements;
- (d) limitations on practices and procedures that may be performed by certified individuals;
- (e) the use of specific drugs necessary for safe and proper practice of certified procedures;
- (f) content and administration of the certification test, including written and practical testing;
- (g) application and reexamination procedures; and
- (h) conduct of certified individuals, including rules for suspension, revocation, and denial of certification.

(4) This chapter does not prohibit a person from caring for and treating the person's own farm

animals or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601, employed in the conduct of the person's business or by other persons whose services are rendered gratuitously in case of emergency.

(5) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at the pharmacist's regular place of business.

(6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities determined by board rule to be acceptable, when performed under the supervision of the employing veterinarian.

(7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for that veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under this subsection include activities determined by board rule to be acceptable but do not include the performance of surgery or the rendering of diagnoses.

(8) This chapter does not prohibit a certified agency from possessing, or a certified euthanasia technician from administering, any controlled substance authorized by the board for the purpose of euthanasia pursuant to part 6 of this chapter.

**37-18-104. (Effective January 1, 2023) Exemptions -- rules.** (1) This chapter does not apply to:

(a) a veterinarian in the performance of the veterinarian's official duties, either civil or military, in the service of the United States unless the veterinarian is engaged in the practice of veterinary medicine in a private capacity;

(b) laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of this state or the United States and engaged in labors in laboratories under the direct supervision of the board of livestock, Montana state university-Bozeman, or the United States;

(c) a veterinarian practicing in another state or country and authorized under the laws of that state or country to practice veterinary medicine, whose practice in this state is limited to an occasional case as that term is defined in board rule. The board may, by rule, define conditions in which a veterinary technician licensed or registered in another state may engage in occasional veterinary technician tasks in this state, as provided in 37-18-702.

(d) the employment of a veterinary medical student who has successfully completed 3 years of the



professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association, if the student is employed by and works under the immediate supervision of a veterinarian licensed and registered under this chapter; ~~or~~

(e) a person advising with respect to or performing acts that the board defines by rule as accepted livestock management practices; or

(f) a veterinary dispensing technician who is registered and subject to [sections 1 through 8].

(2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and swine are not the practice of veterinary medicine within the meaning of this chapter.

(3) Nonsurgical embryo transfers in bovines may be performed under the indirect supervision of a veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo transfers in bovines must address:

- (a) minimum education requirements;
- (b) minimum requirements of practical experience;
- (c) continuing education requirements;
- (d) limitations on practices and procedures that may be performed by certified individuals;
- (e) the use of specific drugs necessary for safe and proper practice of certified procedures;
- (f) content and administration of the certification test, including written and practical testing;
- (g) application and reexamination procedures; and
- (h) conduct of certified individuals, including rules for suspension, revocation, and denial of certification.

(4) This chapter does not prohibit a person from caring for and treating the person's own farm animals or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601, employed in the conduct of the person's business or by other persons whose services are rendered gratuitously in case of emergency.

(5) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at the pharmacist's regular place of business.

(6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities determined by board rule to be acceptable, when performed under the direct, immediate, or indirect supervision

of the employing veterinarian. The board shall adopt rules regarding which veterinary practices may be performed under direct, immediate, or indirect supervision by a licensed veterinary technician.

(7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for that veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under this subsection include activities determined by board rule to be acceptable but do not include the performance of surgery or the rendering of diagnoses.

(8) This chapter does not prohibit a certified agency from possessing, or a certified euthanasia technician from administering, any controlled substance authorized by the board for the purpose of euthanasia pursuant to part 6 of this chapter."

**Section 11.** Section 50-32-401, MCA, is amended to read:

**"50-32-401. Report required for precursor to controlled substance.** (1) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to a person in this state shall submit a report to the department of justice detailing all transactions:

- (a) phenyl-2-propanone;
- (b) methylamine;
- (c) d-lysergic acid;
- (d) ergotamine tartrate;
- (e) diethyl malonate;
- (f) malonic acid;
- (g) ethyl malonate;
- (h) barbituric acid; and
- (i) piperidine.

(2) The department of justice may adopt, amend, or repeal rules in accordance with the Montana Administrative Procedure Act that add or delete substances on the list of regulated substances in subsection (1) if the substance is a precursor to a dangerous drug as defined in 50-32-101.

(3) This section does not apply to any of the following:

- (a) a pharmacist, veterinary dispensing technician, or other authorized person who sells or

furnishes the substance upon the prescription of a physician, dentist, podiatrist, or veterinarian;

(b) a physician, dentist, podiatrist, or veterinarian who administers or furnishes the substance to patients;

(c) a manufacturer or wholesaler licensed by the board of pharmacy who sells, transfers, or otherwise furnishes the substance to a licensed pharmacist, physician, dentist, podiatrist, or veterinarian;

(d) transfers of the substances listed in subsection (1) within any college or university to an employee or student of the college or university for the purpose of teaching or research authorized by the college or university."

**Section 12.** Section 80-8-207, MCA, is amended to read:

**"80-8-207. Dealers.** (1) A person may not sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a license. The dealer shall furnish the department with the names and addresses of the dealer's field personnel and salespeople selling pesticides within the state.

(2) The department shall require an applicant for a dealer's license to show, upon written examination, that the person possesses adequate knowledge related to the responsibilities of a pesticide dealer. Licensed dealers are not required to repeat an examination to renew their license provided they have earned the required recertification credits for renewal of that license.

(3) The application for a license must be accompanied by a fee of \$75. A dealer applying for renewal of a license shall apply on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a \$25 late licensing fee.

(4) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(5) The department shall assess an additional annual license fee of \$10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than \$10 a year or more than \$15 a year. Fees collected under this subsection must be deposited in an account in the state special revenue fund pursuant to 80-8-112.

(6) Pharmacists licensed as provided for in 37-7-302, veterinarians licensed as provided for in 37-18-302, veterinary dispensing technicians registered as provided in [section 6], and certified pharmacies licensed under 37-7-321 are not required to be licensed to sell pesticides if the certified pharmacies and veterinarians register with the department each year. However, the certified pharmacies and veterinarians must meet all other requirements concerning the commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

NEW SECTION. Section 13. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 8].

NEW SECTION. Section 14. Effective date. [This act] is effective July 1, 2023.

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