

HOUSE BILL NO. 59

INTRODUCED BY M. VINTON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO WATER WELL CONTRACTORS; REVISING WHO MAY CONTRACT ON BEHALF OF A LICENSED WATER WELL CONTRACTOR; CLARIFYING LICENSURE REQUIREMENTS FOR THE ABANDONMENT OR DECOMMISSIONING OF WELLS; INCREASING THE BOND AMOUNT REQUIRED FOR WATER WELL CONTRACTOR LICENSURE; PROVIDING FOR REVIEW OF DRILLER WELL LOGS; REVISING COMPLAINT AND INVESTIGATION PROCEDURES; AND AMENDING SECTIONS 37-43-301, 37-43-302, 37-43-306, ~~AND 37-43-309~~, 37-43-313, AND 85-2-516, MCA."

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

Section 1. Section 37-43-301, MCA, is amended to read:

"37-43-301. Licensed person to supervise all construction. (1) Any firm, corporation, or partnership may engage in the business of constructing water wells provided a licensed water well contractor is placed in charge of all water well construction.

~~(2) The licensed water well contractor must be the individual who contracts on behalf of the firm, corporation, or partnership.~~

~~(3)~~(2) A licensed water well driller, pursuant to 37-43-305, must be employed by a licensed water well contractor."

Section 2. Section 37-43-302, MCA, is amended to read:

"37-43-302. License required. (1) The drilling, making, or construction of water wells and monitoring wells is declared to be a business and activity affecting the public interest and requiring reasonable standards of competence. Except as provided in subsection (2), it is unlawful for any water well contractor, water well driller, or monitoring well constructor to construct, drill, alter, abandon, decommission, or rehabilitate a water

1 well or a monitoring well without first having obtained a valid license ~~therefor~~ for the activity as provided for in
2 this chapter. An individual who is licensed as a water well contractor is not required to have a separate water
3 well driller's license to perform the actual construction work on the well or a separate license to install
4 monitoring wells.

5 (2) A license is not required for:

6 (a) a person who constructs, drills, alters, abandons, decommissions, or rehabilitates a water or
7 monitoring well on land that is owned or leased by the person if:

8 (i) the land is used by the person for farming, ranching, or agricultural purposes or as the person's
9 residence;

10 (ii) the person obtains a permit from the board; and

11 (iii) the construction of the well conforms to the minimum construction standards for water or
12 monitoring wells set by board rule; or

13 (b) an apprentice water well driller who performs labor or services for a licensed water well
14 contractor or driller in connection with the drilling of a water well at the direction and under the personal
15 supervision of a licensed water well contractor or driller.

16 (3) (a) To obtain a permit under subsection (2)(a), a person shall file with the department an
17 application containing the applicant's name and mailing address, the location of the proposed well, the nature of
18 the applicant's ownership interest in the property on which the well is to be located, the construction or
19 installation method to be used, and the use for the proposed well.

20 (b) The board shall promptly issue a permit if it finds that:

21 (i) the well is located on land that the applicant owns or leases and that the applicant uses for
22 farming, ranching, or agricultural purposes or as the applicant's residence; and

23 (ii) the construction or installation method to be used meets the minimum standards for water wells
24 or monitoring wells set by board rule."

25

26 **Section 3.** Section 37-43-306, MCA, is amended to read:

27 **"37-43-306. Bond to be required.** (1) The department, on issuance of a water well contractor's or
28 monitoring well constructor's license under this chapter, shall require, before the person commences operations

1 in this state, a good and sufficient surety bond or its equivalent in a certificate of deposit, cashier's check, bank
2 draft, or certified check, to be approved by the board, in the sum of ~~\$4,000~~ \$25,000, conditioned that the
3 licensee will comply with the rules of the board.

4 (2) A person who is licensed in more than one category need supply only one surety bond or its
5 equivalent in a certificate of deposit, cashier's check, bank draft, or certified check, to be approved by the
6 board, for ~~\$4,000~~ \$25,000.

7 (3) A state or federal employee who is bonded by the state or federal government is not required
8 to supply a bond during the course of employment with the state or federal government. A bond is required if
9 the person ceases government employment.

10 (4) In lieu of the requirements of subsections (1) through (3), a firm, corporation, or partnership
11 having more than two licensed water well contractors or monitoring well constructors may submit one bond in
12 the amount of ~~\$10,000~~ \$25,000 for the entire firm, corporation, or partnership."
13

14 **Section 4.** Section 37-43-309, MCA, is amended to read:

15 **"37-43-309. Complaints and investigations.** The board may investigate complaints against
16 licensees to determine compliance with the laws and rules of this chapter. ~~Licensees must be given an~~
17 ~~opportunity to respond to complaints and demonstrate or achieve legal compliance prior to disciplinary action.~~
18 LICENSEES MUST BE GIVEN AN OPPORTUNITY TO RESPOND TO A COMPLAINT, AFTER WHICH THE BOARD MAY BEGIN
19 DISCIPLINARY ACTION UNDER 37-43-310. The board may require complainants and licensees to appear before the
20 board to discuss complaints and to attempt to settle differences."
21

22 **SECTION 5.** Section 37-43-313, MCA, is amended to read:

23 **"37-43-313. Disciplinary authority.** (1) If the board finds grounds for disciplinary action, as provided
24 in subsection (2), the board may by order:

- 25 (a) require a licensee to repair or reconstruct substandard wells at the licensee's expense to meet
26 board standards;
- 27 (b) require a licensee to take further training or education;
- 28 (c) place probationary terms and conditions on a license;

- 1 (d) suspend a license for a period not to exceed 1 year; or
- 2 (e) revoke a license, specifying that the licensee may not reapply for licensure for a period of 3
- 3 years from the date of revocation.
- 4 (2) Grounds for disciplinary action include:
- 5 (a) violating the rules, construction standards, or laws established by the board and this chapter;
- 6 (b) disobeying an order from the board to repair or reconstruct a substandard well;
- 7 (c) violating probationary terms of or conditions on a license;
- 8 ~~(d)~~ failing to submit a well log report pursuant to 85-2-516 in a complete or timely manner;
- 9 ~~(d)~~ (e) misrepresenting facts on well log reports, license or renewal applications, or apprenticeship
- 10 records or in response to board inquiries; or
- 11 ~~(e)~~ (f) failing to maintain qualifications for licensure as specified in 37-43-305.
- 12 (3) This section may not be interpreted to conflict with the provisions of 37-1-138."

13

14 **SECTION 6.** Section 85-2-516, MCA, is amended to read:

15 **"85-2-516. Well logs.** (1) Within 60 days after any well is completed, the driller shall file with the

16 bureau a well log report. The bureau shall notify the board of water well contractors established in 2-15-3307 if

17 a submitted well log report was not filed within 60 days of well completion.

18

19 (2) Except as provided in subsection (3), the well log report must be filed on a form specified by

20 the department in consultation with the board of water well contractors ~~provided for in 2-15-3307~~ and the

21 bureau. The driller shall provide a location for the well using at least two methods as specified on the form.

22 (3) The bureau may allow submission of the well log report in an electronic format that is in

23 accordance with the form specified as provided in subsection (2).

24 (4) (a) The bureau may return the report to the driller for refileing within 30 days of submission if it is

25 incomplete or incorrect.

26 (b) Within 30 days after being notified of the deficiency, the driller shall correct and return the well

27 log to the bureau.

28 (c) The bureau shall notify the board of water well contractors if a well log report remains

1 incomplete or incorrect after the refileing or if the driller has not corrected and returned the report within 30 days

2 pursuant to subsection (4)(b)."

3

4 - END -