

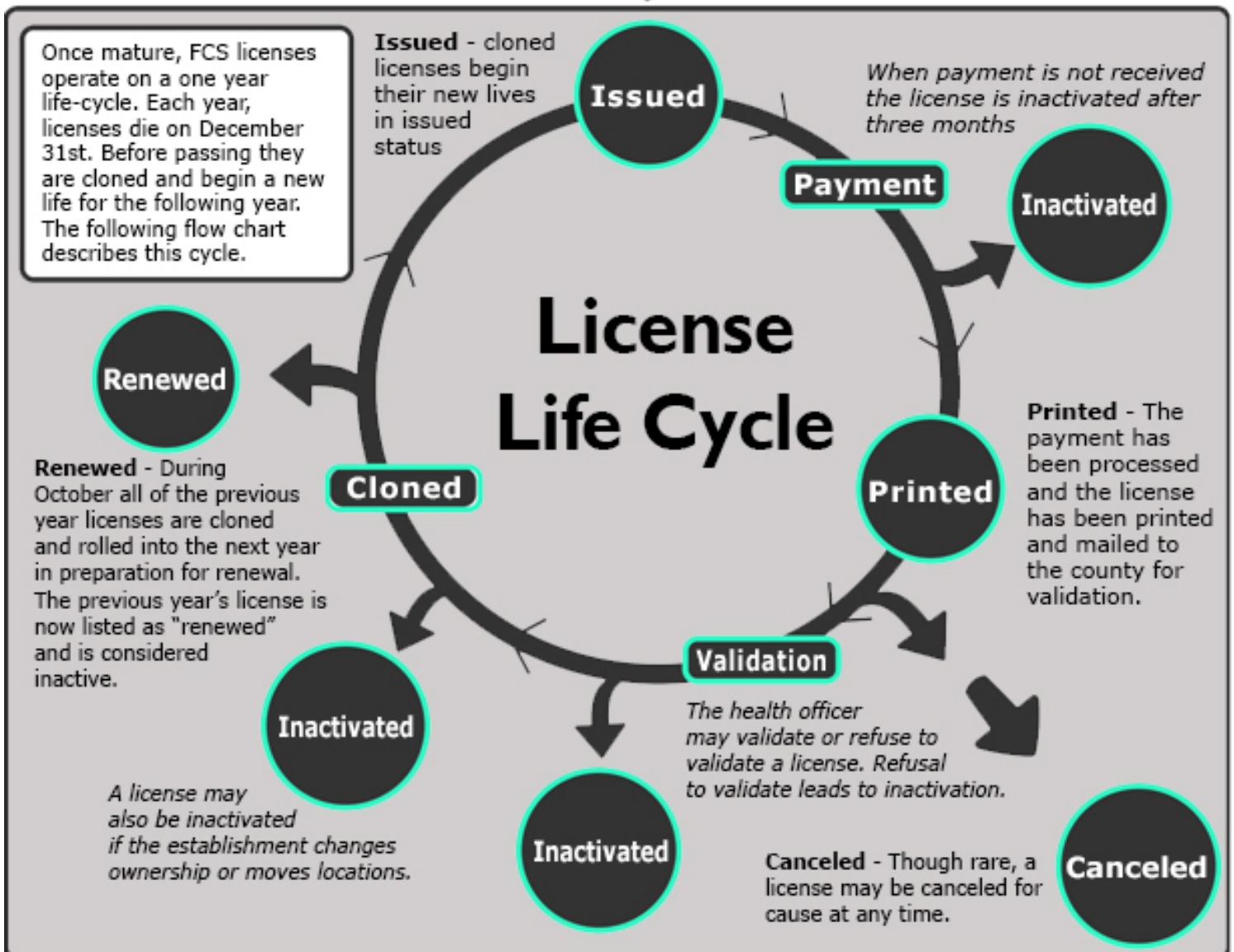
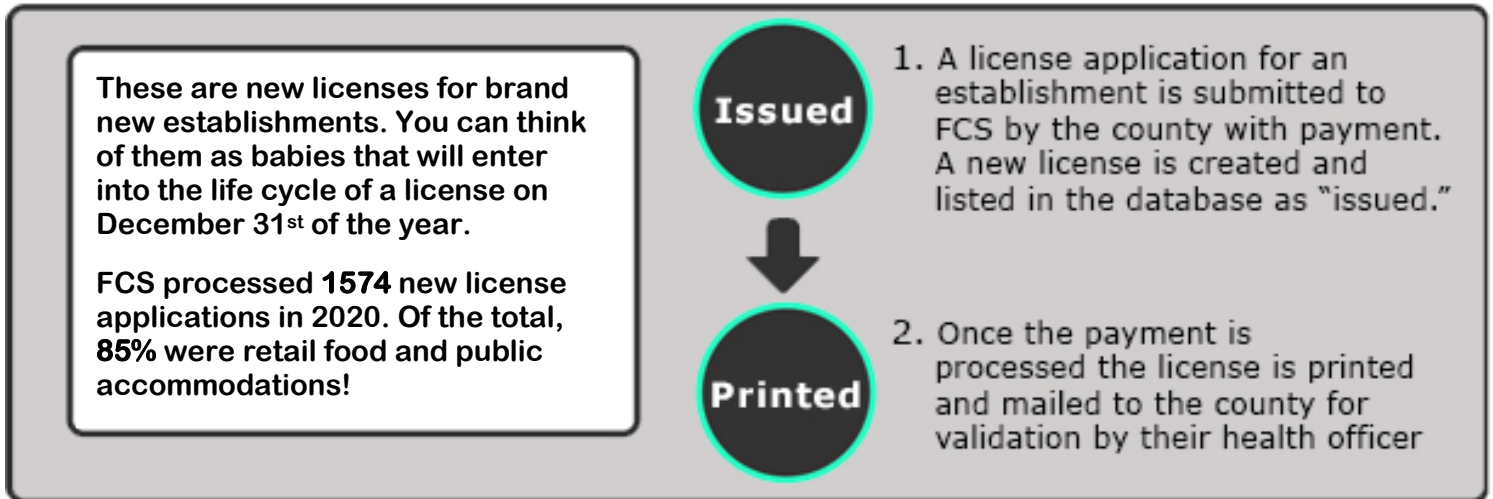


MONTANA  
**FOOD & CONSUMER  
SAFETY PROGRAM**

# ESTABLISHMENT LICENSING POLICIES & PROCEDURES

# Food & Consumer Safety Licensing

## The life-cycle of an FCS License



# FCSS ESTABLISHMENT LICENSING PROCEDURES—REVISED 9-17-18

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## Definitions

Important terms used in the licensing database

1. Issued – means the Department has received a valid license application or that the license has been moved from the previous year to the upcoming year. The license has been created in the database and is pending payment, printing, or both.
2. Printed – means the license payment has been received, the license has been printed, and the license has been mailed to the local health jurisdiction.
3. Renewed – means that the license has been moved into the next year.
4. Inactivated – means that the local health jurisdiction has closed the license for cause such as refusal to validate or an ownership change has occurred, the business has closed, or the business changed location, or the license was cancelled for lack of payment.
5. Cancellation – means that the local health jurisdiction and the Department have followed the cancellation procedures specific to that licensing type.

## General Procedures to complete a new license application:

1. Once the local sanitarian determines that an applicant has satisfied all requirements of the rules pertaining to the operation of an establishment, then an application may be completed.
2. Owner names can only be 30 characters long. Names longer than that will be put on the second line for 30 characters and will not display on the License Detail page but will be displayed on the Owner Detail Page and printed on the Renewal reminder and license. Establishment names can only be 30 characters long, names longer than that will be cut off when the space runs out. (e.g. ROBERT CANDLESS DBA THE AMERICAN TOURIST HOME will read ROBERT CANDLESS DBA THE AMERIC) Please be aware of this when completing the application.
3. The establishment location address must be the physical location address recognized by USPS. All mailing and location addresses will be entered into the database according to USPS addressing guidelines. (e.g. "N" for North and "S" for South, AVE for Avenue, ST for Street, STE for Suite, RM for Room etc.)
4. Sanitarian completes the bottom portion of the application. The back of the application has a brief description and examples of license types and sub types.
5. Check the appropriate box for Water Supply and write the PWSID number. PWSID numbers are not needed on Mobile applications. FCSS is not collecting public sewage system ID numbers currently.
6. Under 'License Limitations and Restrictions' list approved menu items and/or operation restrictions. This is very important with Mobile Retail Food Service establishments. This is printed on the license under conditions.
7. Under 'Previously Licensed' if the check box is checked and a license number is written in, that license will be inactivated. If do not want the license inactivated do not put any information on these lines.

8. The sanitarian must review the form for completeness and legibility. If the information is not legible the application may be sent back to the county thus delaying the license process.
9. The county submits the completed form with the appropriate fee to FCSS.
10. The license year will correspond to the year the application is received.
11. Applications and license fees must be received by FCS at the same time from the sanitarian, applications received by owners will not be accepted.

#### Procedures for Retail Mobile Food licenses:

1. Mobile Retail Food Service license applications must be completed by a sanitarian from the county in which the establishment owner claims as its base of operation.

#### Procedures for Tourist Home licenses:

1. Tourist Home licenses should be licensed as the number of bedrooms. If an owner has 3 bedrooms, it would be licensed as 3 units on the old application.
2. Tourist Homes must be put in establishment owners name, this stops confusion when management companies change. The management company can be put on the second line.

#### Procedures for Trailer Court/Campground licenses:

1. License applications for new Trailer Courts/Campgrounds need an approval from FCSS staff prior to licensing.
2. License applications for Trailer Court/Campground licenses that have not been licensed for more than 2 years will need to go through FCS Plan Review prior to licensing.

#### Procedures for Wholesale Food Establishment licenses:

1. License applications for wholesale food establishments need an approval from FCSS staff prior to licensing.
2. License applications for existing wholesale food establishments, that have had an ownership change or location change, Wholesale Certification Page needs to be submitted with the application.

#### Procedures for Pool/Spa Licenses

1. Pool plan review must be complete by FCS on all new pools or spas
2. A Pool is >4,000 gallons, a spa license is =<4,000 gallons

#### Procedures for eStop Business licenses:

1. Only qualified retail food establishments can be licensed through the Department of Revenue's (DOR) *eStop* Business Licensing To qualify for an *eStop* license the applicant must apply for another *eStop* license (e.g. cigarettes, beer/wine, meter, nursery, scale, storage tanks, meter/scale, or lottery).
2. The establishment owner submits a master application to *eStop* Business with the appropriate fees. A copy of this *eStop* Business application is emailed to the lead county sanitarian.
3. *eStop* Business license applications check the *eStop* Business license box; do not collect the license fees.
4. *eStop* Business licenses will have the legal establishment name that matches the FEIN (Federal Employer Identification Number) on record with Secretary of State.
5. The county sanitarian must complete a new Retail Food License application (same as outlined above) without the fees and submit to FCSS.
6. The expiration date for *eStop* Business license is the anniversary date of the original application.
7. DOR issues licenses, renewal notices and collects new and renewal license fees.
8. DOR sends out a renewal reminder once a month for 3 months. After the 3<sup>rd</sup> month FCSS will send an inactivation letter to the establishment owner and a copy to the county, giving the owner 14 days to pay or the license will be inactivated for lack of payment. The county will be emailed a copy of this letter. If payment is not received a letter will be sent to the owner with a copy sent to the county stating that this license has been inactivated.
9. *eStop* Licenses can be reactivated upon collection of the fees and county approval.
10. License numbers do not change unless the original owner retains any part of the current *eStop* license (e.g. scales, tanks, etc.).
11. On or about the last week in January *eStop* licenses will be brought into the next year, allowing for late payments.

## Procedures to make changes to an **existing** license:

1. When a license change form is received by FCSS from the county the update will be made within 10 business days.
2. License change forms submitted by email from administrative support must be copied to the county's lead sanitarian and have the sanitarian requesting the change on the form.
3. If an establishment is out of business, the county sanitarian must notify FCSS by submitting a completed license change form.
4. Any changes made to owner record, establishment record, license types or license sub-types an updated license will be printed and sent to the county for validation or for their records.
5. Existing Manufacture and Warehouse licenses that have an ownership or location change must complete and submit a completed and signed Wholesale Certification Page.
6. If FCSS receives a message from the establishment owner, the owner's name will be updated by FCSS staff only if it isn't an ownership change (e.g. Donald Smith, owner, changed name to Smith LLC or Lorena Smith wants her name changed to Lorena Jones).

7. When changing license types the subtypes and/or units need to be included.
8. A location change or ownership change will require a new application. Licenses and license fees are not transferable.
9. If a change in the number of employees requires a change in the size of the license (e.g. food small to a food large) this can be an email or a change form to FCSS. The license will be updated at license renewal in October.

**License Renewals** – Except for *eStop* licenses (administered through MT Dept. of Revenue) all licenses expire December 31<sup>st</sup> of each year. Renewal fees can either be mailed to DPHHS or owners can renew online at our website for a nominal fee. The renewal website will be open on or about October 15th through March 31st. On January 1<sup>st</sup> the late fee will be added to the regular fee.

#### Key Dates:

- **First Week of October** – Send license list to counties for review and updated mailing addresses.
- **Last Saturday in October** - renewals will be run.
- **Last Monday in October** – renewal notices mailed for all active licenses.
- **Last Monday in October** - email will be sent to all establishments with listed emails.
- **Last Friday in November** – email will be sent to all establishments still owing license fees with listed emails.
- **First Week of December** – 2<sup>nd</sup> reminders (postcards) mailed for all unpaid licenses.
- **Second Week of December** – email will be sent to all establishments still owing license fees with listed emails (we will begin date stamping envelopes with date received).
- **Last Week of December** – email will be sent to all establishments still owing license fees with listed emails.
- **December 31<sup>st</sup>** – licenses expire, except *eStop*.
- **January 1<sup>st</sup>** – late fees assessed on all unpaid licenses.
- **First Week of January** – start to waive erroneous late fees from licenses paid on-line or mailed before January 1<sup>st</sup>.
- **Second Week of January** – delinquent notices mailed.
- **Last Week of January** – *eStop* licenses will roll into the next license year.
- **First Week of February** – delinquent notices for licenses still owing just the late fee printed & mailed.
- **Second Week of March** – Counties will be emailed a list of unpaid licenses that may be inactivated due to lack of payment.
- **Last Week of March** – on-line renewal removed from FCSS website to inactivate unpaid licenses.
- **Last Wednesday in March** – all renewal checks must be scanned, and spreadsheet sent to Fiscal by 2:00pm.

- **First Monday in April** – delinquent licenses will be inactivated in the licensing database and letters regarding inactivation of licenses will be mailed to both the operator and the county. FCS website reactivated.

### Procedures for Renewals:

1. On or about the last weekend in October FCSS will change the status of all current year licenses from 'active' to 'renewed' in the database.
2. On or about the last week of October FCSS will print and mail Reminder Notices to all existing licensees.
3. On or about the first week in December, a second reminder in the form of a postcard will be mailed to those who have not renewed their licenses. This will remind the license holders of the requirement to submit their renewal fees prior to December 31<sup>st</sup> to avoid late fees.

### Procedures for Late Fees:

1. On January 1<sup>st</sup> a late fee of \$25 will be assessed on all unpaid licenses.
2. On or about the second week in January, FCSS will print and mail Delinquent Notices to license holders who have not renewed.
3. On or about the last week in January, FCSS will print Delinquent Notices to license holders that still owe the late fee.

### Procedures for Inactivation of a license –

1. On or about the second week in March, FCSS will email a list of all delinquent licenses to each county.
2. On or about the last day in March, FCSS will mail a letter to each delinquent establishment owner stating that their license has been inactivated and they need to contact the county for reinstatement. A copy of this letter will be provided to the county.
3. On or about the last day in March, FCSS will change the status of all delinquent licensed establishments to 'inactivated'.

### Procedures for Inactivation of an eStop license:

1. DOR will send out renewal statements for 3 months, FCS will email the county to ensure the establishment is open and operating.
2. FCS will send a letter to the operator stating owner has 14 days to pay the fees, the county will be emailed a copy of this letter for their records.
3. If not paid within the listed time, FCS will inactivate the license and send a letter to the owner, the county will get a copy.

### Procedures for Reactivation of a license:



4. If a license has been inactivated and if all required fees are later paid, the county may submit a license change form requesting the license be reactivated.
5. License fees received on or before licenses are inactivated will be reactivated without contacting the county for approval.

**Printing and mailing of licenses** - When a license application or a license renewal and all fees are received by FCSS, all relevant information will be entered into the FCSS licensing database, and a license will be printed. The license will be mailed to the county for validation. Once validated, the county is then responsible for mailing the license to the applicant.

### Procedures for License Fee Quarterly, Year-end Inspection, Cooperative Agreement Payments:

1. On or about the 3<sup>rd</sup> week after the end of the quarter, FCSS will request quarterly checks for all establishments with inspection dates entered into the database.
2. On or about the 2<sup>nd</sup> week of February FCSS will request year-end checks for all establishments with inspection dates entered in the database, but have not been paid.
3. On or about the 3<sup>rd</sup> week in July, FCSS will request the mobile inspection check for all 2<sup>nd</sup> inspections for mobiles not licensed in that county and again after the 4<sup>th</sup> quarter payment has been made.
4. On or about the 4<sup>th</sup> week of February FCSS will request the checks for the Cooperative Agreement.

### Procedures for License Validation

**License validation**– A license is not valid until signed by the local health officer (LHO) in the county where the establishment is located within 15 days after its receipt (\*note: if the sanitarian validates licenses on behalf of the LHO, it is recommended that a letter granting this authority be maintained in the county records). Failure to validate the license within the 15-day time period is determined to be a refusal by the county to validate and must proceed with notification as required.

*eStop* licenses will be validated by responding to the FCSS's notice (email) issued to the county sanitarian within 15 days of receipt of notice.

**Refusal to validate**– If the LHO finds the establishment to be out of compliance with the statute or rules, they may refuse to validate the license. If the license is not validated, the LHO must notify the license applicant and the FCSS in writing, stating the reason(s) for refusal. FCS will start the 30 days upon receipt of the refusal to validate letter. FCS will email the county at the end of the 30 days to ascertain what the county's decision, or the county can request more time for the establishment to come into compliance. The county can contact FCS and cancel the Refuse to Validate before the 30 day deadline. The applicant, or any person aggrieved by the action, may appeal the decision to the local board of health within 30 days after receiving written notice.

After the appeal period, the county must notify FCSS of the status of the license. The county must notify the FCSS of the applicant's response to the refusal to validate. If the applicant does not come into compliance, the license will be inactivated by FCSS and the license fee refunded.

- **30 days for the applicant to appeal to Local Board of Health**
- **After the appeal period has elapsed, and the county has not validated the license, the license fee will be refunded to the owner**

**Cancellation of a license**– If the LHO or Local Board of Health has determined that a license should be cancelled, they must notify FCSS. When FCSS has determined after an investigation (provided by the local jurisdiction) that a license is to be cancelled, FCS will notify the licensee by mail, with a copy of the letter provided to the county.

Once the applicant has received notice of cancellation, they have 10 days to submit to FCSS:

1. An acceptable plan of correction; or
2. A written request for a hearing before the FCSS.

If the applicant does not respond within 10 days, the license will be cancelled. An acceptable plan of correction will include response to all violations noted in the investigation with approved deadlines for correction.

- **10 days for the applicant to respond to FCSS**

## Montana Code Annotated:

### Retail Food

50-50-201. License required. (1) Except as provided in 50-50-202, a person operating an establishment shall procure an annual license from the department. (2) A separate license is required for each establishment, but if more than one type of establishment is operated on the same premises and under the same management, only one license is required.

50-50-203. Application for license. An application for a license is made to the department on forms and contains information required by the department or is an application for a license that is in compliance with rules established by the board of review established in 30-16-302.

50-50-205. License fee. (1) (a) The department shall collect for each license issued or renewed a fee as provided in subsection (1)(b). Of the fees collected under this section, 90% must be deposited into the local board inspection fund account created in 50-2-108, 5% into the general fund, and 5% into the account provided for in 50-50-216.  
(2) (a) In addition to the license fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year.

50-50-205(2) – A late fee of \$25 shall be collected by FCSS if an existing applicant has failed to submit a license renewal fee prior to the expiration date.

50-50-206. License not transferable. Licenses are not transferable or applicable to any premises other than that for which the license was issued.

50-50-207. *Expiration date of license. (1) Except as provided in subsection (2), licenses expire on December 31 following the date of issue unless canceled for cause. (2) License renewals provided for in 16-11-122, 30-12-203(5)(a), 50-50-201, 80-7-106, and 82-15-105 expire on the anniversary date established by rule by the board of review established in 30-16-302.*

50-50-209. *Cancellation of license. The department may cancel a license if it finds, after proper investigation, that the licensee has violated this chapter or a rule effective under this chapter and the licensee has failed or refused to remedy or correct the violation.*

50-50-210. *Submission of plan of correction as bar to cancellation. Submission to the department of an acceptable plan of correction within 10 days after receipt from the department of written notice of violation and execution of an acceptable plan within the time prescribed in the written notice of approval of the plan by the department shall be a bar to prosecution for violation.*

50-50-211. *Notice and hearing required. A license may not be denied or canceled by the department without delivery to the applicant or licensee of a written statement of the grounds for cancellation or denial or the charge involved and an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or canceled. In such case, the licensee must make a written request to the department for a hearing within 10 days after notice of the grounds or charges has been received.*

50-50-212. *Cancellation of license for multiple-type establishment. When a multiple-type establishment is licensed by the department, the denial or cancellation of the license may affect the entire establishment or only a portion of it as determined by the department. A multiple-type establishment includes an establishment authorized by 50-50-201(2).*

50-50-214. *Notification of and validation by local health officer. (1) A license issued by the department under this chapter is not valid until signed by the local health officer in the county where the establishment is located or until the license is otherwise validated by the local health officer and is in accordance with rules established by the board of review established in 30-16-302. (2) The local health officer shall, within 15 days after the department has notified the local health officer of its decision to issue a license under this chapter, make a final decision on whether the license will be validated. (3) Failure of the local health officer to validate the license within 15 days after its receipt is a refusal.*

50-50-215. *Refusal by local health officer -- appeal to board. (1) The local health officer may refuse to validate a license issued under this chapter only upon a finding that the requirements*

of this chapter and any rules implementing it are not satisfied. If the local health officer refuses to validate the license, the officer shall notify the applicant and the department in writing stating the officer's reasons. (2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer's decision. (3) The hearing before the local board of health must be held pursuant to the contested case provisions of the Montana Administrative Procedure Act.

50-50-106. Injunctions. The regulatory authority may bring an action for an injunction against any continued violation of this chapter or rule adopted by the department under this chapter.

## Body Art

50-48-201. License required -- fees -- application. (1) A person operating an establishment shall procure an annual license from the appropriate regulatory authority having jurisdiction. For each annual license, the regulatory authority shall collect a fee established by rule pursuant to [50-48-103](#) or [50-48-203](#).

50-48-201 (2) A separate license is required for each establishment operating on different premises.

(3) A person operating a multiple-type establishment shall procure separate licenses for body piercing and tattooing businesses.

50-48-201 (4) An application for a license must be made to the department on forms containing the information required by the department.

(5) Licenses are not transferable.

50-48-202. Late fee -- allocation of licensure and late fees. (1) A person operating an establishment who fails to renew a license issued by the department by the expiration date and who operates the establishment in the license year for which an annual renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the annual fee required by [50-48-201](#). Payment of the late renewal fee does not relieve the operator of responsibility for operating without a license.

50-48-204. Denial or cancellation of license by regulatory authority -- multiple-type establishments.

(1) The regulatory authority may deny or cancel a license it issues if it finds, after proper investigation, that the applicant or licensee is not in compliance with this chapter or a rule adopted under [50-48-103](#) or [50-48-203](#) and the applicant or licensee has failed or refused to remedy or correct the noncompliance or violation.

(2) When a multiple-type establishment is licensed, the denial or cancellation may affect both tattooing and body-piercing operations or only one of the operations, as determined by the regulatory authority.

50-48-205. Notice and hearing required for license denial or cancellation. (1) A license may not be denied or canceled by the regulatory authority without delivery to the applicant or licensee of a written statement of the grounds for denial or cancellation and an opportunity for a hearing before the regulatory authority to show cause, if any, why the license should not be denied or canceled.

(2) The applicant or licensee shall make a written request to the department for a hearing within 10 days after notice of the grounds for denial or cancellation has been received.

(3) The hearing conducted by the department must be held in accordance with the contested case procedures of the Montana Administrative Procedure Act.

## Public Accommodations

50-51-201. License required. (1) Except as provided in subsection (2), a person engaged in the business of conducting or operating an establishment shall annually procure a license issued by the department.

(2) A guest ranch or an outfitting and guide facility that meets the definitions in [50-51-102](#) is not required to obtain a license under subsection (1).

(3) A separate license is required for each establishment. However, when more than one type of establishment is operated on the same premises and under the same management, only one license is required that must enumerate on the certificate the types of establishments licensed.

50-51-202. Application for license. Application for a license shall be made in writing to the department on such forms and with such pertinent information as it considers necessary

50-51-204. License fee -- late fee. (1) (a) The department shall collect fees for each license required under [50-51-201](#) or for each annual license renewal as provided in subsection (1)(b). The department shall deposit 85% of the fees collected under this section into the local board inspection fund account created in [50-2-108](#), 11.25% of the fees into the general fund, and 3.75% of the fees into the account provided for in [50-51-110](#).

(b) Initial and renewal license fees are:

(i) \$40 annually for an establishment with no more than 10 rooms available for rental;

(ii) \$80 annually for an establishment with more than 10 but not more than 25 rooms available for rental; and

(iii) \$160 annually for an establishment with more than 25 rooms available for rental.

(2) (a) In addition to the license renewal fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year

50-51-204 (2)(a) a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year

50-51-206. License not transferable. Such license shall not be transferable or be applicable to any premises other than that for which originally issued.

50-51-207. Expiration date of license. (1) Except as provided in subsection (2), each license expires on December 31 following its date of issue unless canceled for cause.

50-51-209. Cancellation of license. The department may cancel a license if it finds, after proper investigation, that the licensee has violated this chapter or a rule effective under this chapter and the licensee has failed or refused to remedy or correct the violation.

50-51-210. Submission of plan of correction as bar to cancellation. Submission to the department of an acceptable plan of correction within 10 days after receipt from the department of written notice of violation and execution of an acceptable plan within the time prescribed in the written notice of approval of the plan by the department shall be a bar to prosecution for violation.

50-51-211. Notice and hearing required. A license may not be denied or canceled by the department without delivery to the applicant or licensee of a written statement of the grounds therefor or the charge involved and an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or canceled. In such case, the licensee must make a written request to the department for a hearing within 10 days after notice of the grounds or charges has been received.

50-51-212. Cancellation of license for multiple-type establishment. When a multiple-type establishment is licensed by the department, the denial or cancellation of the license may affect the entire establishment or only a portion of it as determined by the department. A multiple-type establishment includes an establishment authorized by [50-51-201\(2\)](#).

50-51-214. Notification of and validation by local health officer. (1) A license issued by the department under this chapter is not valid until signed by the local health officer in the county where the establishment is located. (2) The local health officer shall, within 15 days after the department has notified the local health officer of its decision to issue a license under this chapter, make a final decision on whether the license will be validated. (3) Failure of the local health officer to validate the license within 15 days after its receipt is a refusal.

50-51-215. Refusal by local health officer -- appeal to board. (1) The local health officer may refuse to validate a license issued under this chapter only upon a finding that the requirements of this chapter

and any rules implementing it are not satisfied. If the local health officer refuses to validate the license, the officer shall notify the applicant and the department in writing stating the officer's reasons. (2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer's decision. (3) The hearing before the local board of health must be held pursuant to the contested case provisions of the Montana Administrative Procedure Act.

## Campground & Trailer Courts

50-52-201. Application for license. (1) Application for a license is made to the department on forms containing information required by the department.

50-52-202. License fee -- late fee. (1) (a) Each application for a new license required under [50-52-103](#) or a license renewal must be accompanied by a fee as provided in subsection (1)(b).

(b) License fees are:

(i) \$40 annually for a campground or trailer court with no more than 10 spaces available for rental;

(ii) \$60 annually for a campground or trailer court with more than 10 but not more than 25 spaces available for rental; and

(iii) \$120 annually for a campground or trailer court with more than 25 spaces available for rental.

(2) Of the fees collected under subsection (1), the department shall deposit 85% into the local board inspection fund account created in [50-2-108](#), 11.25% into the general fund, and 3.75% into the account provided for in [50-52-210](#).

(3) (a) In addition to the license renewal fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year.

50-52-202 (3)(a) the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year.

50-52-203. Expiration date of license. (1) Except as provided in subsection (2), licenses expire on December 31 of the year in which they are issued unless canceled for cause.

50-52-205. Cancellation of license. The department may cancel a license if it finds, after proper investigation, that the licensee has violated this chapter or a rule effective under this chapter and the licensee has failed or refused to remedy or correct the violation.

50-52-206. Submission of plan of correction as bar to cancellation. Submission to the department of an acceptable plan of correction within 10 days after receipt from the department of written notice of



violation and execution of an acceptable plan within the time prescribed in the written notice of approval of the plan by the department shall be a bar to prosecution for violation.

50-52-207. Notice and hearing required. A license may not be denied or canceled by the department without delivery to the applicant or licensee of a written statement of the grounds for denial or cancellation or the charge involved and an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or canceled. In this case, the licensee must make a written request to the department for a hearing within 10 days after notice of the grounds or charges has been received

50-52-208. Notification of and validation by local health officer. (1) A license issued by the department under this chapter is not valid until signed by the local health officer in the county where the establishment is located. (2) The local health officer shall, within 15 days after the department has notified the local health officer of its decision to issue a license under this chapter, make a final decision on whether the license will be validated. (3) Failure of the local health officer to validate the license within 15 days after its receipt is a refusal.

50-52-209. Refusal by local health officer -- appeal to board. (1) The local health officer may refuse to validate a license issued under this chapter only upon a finding that the requirements of this chapter and any rules implementing it are not satisfied. If the local health officer refuses to validate the license, the officer shall notify the applicant and the department in writing stating the officer's reasons. (2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer's decision. (3) The hearing before the local board of health must be held pursuant to the contested case provisions of the Montana Administrative Procedure Act.

## Wholesale Food

50-57-201. License required. (1) A person operating an establishment shall procure an annual license from the department. (2) Except as provided in subsection (3), a separate license is required for each establishment, but if more than one type of establishment is operated on the same premises and under the same management, only one license is required. (3) A person operating an establishment and a retail food establishment is required to obtain a separate license for the establishment under this chapter and for the retail food establishment under Title 50, chapter 50.

50-57-203. Application for license. An application for a license must be made to the department on forms containing information required by the department, or the application must be made in compliance with the rules established by the board of review established in [30-16-302](#).

50-57-205. License fee -- late renewal fee -- allocation of fees. (1) For each annual license issued or renewed, the department shall collect a fee of \$115. (2) A person operating an establishment who fails to renew a license by the expiration date provided in [50-57-206](#) and who operates the establishment in the license year for which an annual renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the annual renewal fee required by subsection (1). Payment of the late renewal fee does not relieve the operator of responsibility for operating without a license.

50-57-205. (2) A person operating an establishment who fails to renew a license by the expiration date provided in [50-57-206](#) and who operates the establishment in the license year for which an annual renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the annual renewal fee required by subsection (1). Payment of the late renewal fee does not relieve the operator of responsibility for operating without a license.

50-57-206. License expiration -- nontransferability. (1) Except as provided in subsection (2), licenses expire on December 31 of the year in which they are issued unless canceled for cause. (2) If the board of review adopts a renewal date for licenses under this chapter, the licenses expire on the anniversary date established by rule by the board of review. (3) Licenses are not transferable.

50-57-208. Validation by local health officer. (1) A license issued by the department is not valid until it is signed by the local health officer of the local board of health with jurisdiction where the establishment is located. (2) The local health officer shall validate or refuse to validate the license within 15 days of the receipt of the license. (3) The failure of the local health officer to validate the license within 15 days after its receipt is a refusal.

50-57-209. Refusal of local health officer to validate -- appeal to board. (1) A local health officer may refuse to validate a license issued by the department only if the local health officer determines that the applicant has not met the requirements for the issuance of the license under this chapter or rules adopted by the department under this chapter. The local health officer shall notify the applicant and the department of the refusal within 5 days of the decision not to validate. The notice must state the grounds for the refusal. (2) The applicant may appeal the decision of the local health officer to the local board of health by filing a written notice of appeal with the local health officer and the local board of health within 30 days of the local health officer's refusal to validate a license or within 30 days of the expiration of the period for the local health officer's decision under [50-57-208](#), whichever is first. (3) Upon the filing of the notice of appeal, the applicant is entitled to a hearing before the local board of health to determine the applicant's eligibility for a license under this chapter and department rules adopted under this chapter. The hearing must be held pursuant to the contested case procedure of the Montana Administrative Procedure Act. If the local board of health finds that the applicant is

entitled to a validated license, the presiding officer of the local board of health shall validate the license by signing the license.

50-57-210. Cancellation of license -- multiple establishments. (1) The department may deny or cancel a license if it finds, after proper investigation, that the applicant or licensee has violated or is not in compliance with this chapter or a rule adopted under this chapter and that the applicant or licensee has failed or refused to remedy or correct the noncompliance or violation.

(2) When more than one type of establishment is authorized by one license, as provided in [50-57-201](#)(2), the denial or cancellation may affect one, some, or all of the types of establishments as determined by the department

50-57-211. Submission and execution of plan of correction as bar to cancellation. An applicant or licensee may submit to the department a written plan of correction within 10 days after receipt from the department of a written notice of violation. The department shall determine if the plan of correction is acceptable. The submission and execution of an acceptable plan of correction within the time prescribed in the plan are a bar to license cancellation.

50-57-212. Notice and hearing required. (1) A license may not be denied or canceled by the department without delivery to the applicant or licensee of a written statement of the grounds for denial or cancellation and an opportunity for a hearing before the department to show cause, if any, why the license should not be denied or canceled.

(2) The applicant or licensee shall make a written request to the department for a hearing within 10 days after notice of the grounds for denial or cancellation has been received.

(3) The hearing must be held in accordance with the contested case procedure of the Montana Administrative Procedure Act. After a hearing, the department may issue an appropriate order. Service of notice or an order mailed by the department is complete upon mailing.

## Pools & Spas

50-53-201. License required -- validation. (1) A person may not operate a public swimming pool or public bathing place without annually obtaining a license from the department.

(2) A license is required for each separate public swimming pool or public bathing place. A public swimming pool is separate if:

(a) its water does not commingle with water from any other public swimming pool; or

(b) it is serviced by a separate water filtration system.

(3) A license issued by the department is not valid unless signed in accordance with [50-53-206](#), if applicable, or in accordance with [50-53-207](#), in the case of an appeal.

50-53-203. License fee and late fee -- disposition. (1) (a) Except as provided in subsection (1)(b), each application for an original or renewal license must be accompanied by a license fee of \$200.

*(b) Each application for an original or renewal license for a spa or wading pool with a total water capacity not exceeding 4,000 gallons must be accompanied by a license fee of \$75.*

*(2) An operator of a public swimming pool or public bathing place who fails to renew a license by the expiration date provided in [50-53-204](#) and who operates the public swimming pool or public bathing place in the license year for which a renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 for each calendar month after the renewal due date in addition to the renewal fee required by subsection (1). Payment of the late renewal fee does not relieve the operator of responsibility for any operation without a license.*

**50-53-203.** *(2) An operator of a public swimming pool or public bathing place who fails to renew a license by the expiration date provided in [50-53-204](#) and who operates the public swimming pool or public bathing place in the license year for which a renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 for each calendar month after the renewal due date in addition to the renewal fee required by subsection (1). Payment of the late renewal fee does not relieve the operator of responsibility for any operation without a license.*

**50-53-204. License expiration -- nontransferability.** *(1) A license issued under part 1 and this part expires on December 31 of the year of issuance unless it is suspended or canceled by the department before that date. (2) A license issued under part 1 and this part is not transferable.*

**50-53-206. Validation of license required.** *(1) (a) If the local board of health conducts its own inspections and enforcement activities for the public swimming pools and public bathing places within its jurisdiction, a license issued by the department under part 1 and this part is not valid until it is signed by the local health officer of the jurisdiction in which the public swimming pool or public bathing place is located. (b) The local health officer shall, within 15 days of receipt of the license, validate or refuse to validate the license. Failure of the officer to validate a license is a refusal for the purposes of [50-53-207](#). (2) Validation is not required if the local board of health has delegated its inspection and enforcement activities for public swimming pools and public bathing places to the department*

**50-53-207. Refusal of health officer to validate -- appeal to board.** *(1) A local health officer may refuse to validate a license issued by the department under part 1 and this part only if the officer determines that the license applicant has not met the requirements for the issuance of a license under part 1, this part, and department rules. If the local health officer refuses to validate a license, the officer shall notify the license applicant and the department of the refusal within 5 days of the officer's decision. The notice must state the grounds for the refusal. (2) The license applicant may appeal the decision of the local health officer to the local board of health by filing a written notice of appeal with the officer and the board within 30 days of the officer's refusal or within 30 days of the expiration of the period for the officer's decision under [50-53-206](#), whichever is first. (3) Upon filing the notice of appeal, the license applicant is entitled to a hearing before the board to determine the applicant's eligibility for a license under part 1, this part, and department rules. The hearing must be held pursuant to the contested case procedure of the Montana Administrative Procedure Act. If the board finds that the applicant is entitled to a validated license, the presiding officer of the board shall validate the license by signing the license.*

50-53-211. Denial, suspension, or cancellation of license -- multiple pool facility. (1) The department may deny, suspend, or cancel a license if it finds that the license applicant or licensee has violated part 1, this part, or department rules and has failed or refused to remedy or correct the violation in accordance with the procedure provided in [50-53-213](#).

50-53-212. Administrative enforcement -- notice -- department hearing. (1) A license may not be denied, suspended, or canceled or corrective action may not be ordered by the department unless the department delivers to the license applicant or licensee a written notice of violation that contains a written statement of the facts constituting the violation and a citation to the statute or rule of the department alleged to have been violated. Further administrative enforcement action may not be taken by the department pursuant to the notice if within 10 days after receipt of the notice, the license applicant or licensee complies with the provisions of [50-53-213](#). (2) The department may combine with any notice issued under subsection (1) an order for the suspension or cancellation of a license or for corrective action as the department finds necessary to remedy the violation evidenced in the notice. The order becomes final 10 days after service unless within that time the license applicant or licensee requests a hearing pursuant to subsection (4) or submits a corrective action plan in accordance with [50-53-213](#). (3) The department may combine with any notice or order issued under subsection (1) or (2) an order for the license applicant or licensee to appear before the department within a time specified by the department and show cause why the department should not deny, suspend, or cancel the license or otherwise order compliance with part 1, this part, and the rules of the department. (4) A hearing request by a license applicant or licensee must be made in writing to the department and must specify the mistake in the facts or law relied on by the department. A hearing held pursuant to this section must be held in accordance with the contested case procedure of the Montana Administrative Procedure Act. Following a hearing, the department may issue an appropriate order. Service of notice or an order mailed by the department is complete upon mailing.

50-53-213. Compliance with corrective action plan as bar to further administrative enforcement. The department may not deny, suspend, or cancel the license or require corrective action of an operator of a public swimming pool or public bathing place who received a notice of violation from the department pursuant to [50-53-212](#) if: (1) the operator submits a plan to correct the violation to the department within 10 days of service of the notice; (2) the department approves the plan in writing, including the time in which the plan must be complied with; and (3) the operator complies with the plan within the time period prescribed by the department.

## FAQ's

### Question 1:

I have 2 licensed establishments, one delivers burritos to the other. Does the second one need a manufacturers license?

Answer:

If one entity owns both establishments the answer is 'No'

### Question 2:

An establishment owner has a license for a location A, another establishment owner has a license for location B. Establishment owner A wants to cook at establishment owner B's location and take the product and sell it location A. Does the owner of location A need two licenses.

Answer:

Yes, the owner of A would need two licenses are needed. The second would be needed for location B.

### Question 3:

I have a tattoo artist changing locations. Do I need to update the license or is a new license needed?

Answer:

Yes, a new license is need because owner and location specific.

### Question 4:

My cottage food operator wants to add a product or some products to their registration. Can I send you an email and have the certificate updated?

Answer:

No, the cottage food operator must register again to add products or change locations. The operator must pay the registration fee again and complete and new application.

