

HOUSE BILL NO. 144

INTRODUCED BY A. BECKER

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE WASTE MANAGEMENT LAWS; AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ENJOIN THE TRANSPORTATION OF SOLID WASTE IF THERE IS A VIOLATION; REVISING CERTAIN DEFINITIONS AND DEFINING CERTAIN TERMS UNDER THE INFECTIOUS WASTE MANAGEMENT ACT; MAKING A VIOLATION OF THE INFECTIOUS WASTE MANAGEMENT ACT A MISDEMEANOR; REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADOPT RULES GOVERNING THE INSPECTION AND REGULATION OF THE TRANSPORTATION AND MANAGEMENT OF INFECTIOUS WASTE; AND AMENDING SECTIONS 75-10-231, 75-10-1003, 75-10-1004, AND 75-10-1006, MCA."

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

Section 1. Section 75-10-231, MCA, is amended to read:

"75-10-231. Actions. The department may, through the attorney general or appropriate county attorney, initiate and maintain in district court enforcement actions as provided in this part, including actions to collect a criminal penalty or to enjoin the transportation of solid waste or the operation of a solid waste management system that is in violation of this part or a rule adopted by the department or order issued as provided in this part."

Section 2. Section 75-10-1003, MCA, is amended to read:

"75-10-1003. Definitions. As used in this part, the following definitions apply:

~~(1) "Department" means the department of environmental quality established in 2-15-3501.~~

~~(1) "Disposal" or "dispose" has the meaning provided in 75-10-203.~~

~~(2) "Generator" means an individual, firm, facility, or company that produces infectious waste.~~

~~(2) "Generate" or "generation" means to produce infectious waste.~~

(3) "Infectious" means capable of producing disease. To be infectious, the following four factors simultaneously must be present:

(a) virulence, which is the ability of microorganisms to cause disease;

(b) dose, which is microorganisms in a quantity sufficient to cause infection;

(c) portal of entry, which is an opening or route of access into a human body; and

(d) host susceptibility, which means the host's natural resistance is incapable of preventing infection.

(4) "Infectious waste" means waste capable of producing infectious disease. Infectious waste includes but is not limited to:

(a) cultures and stocks of infectious agents and associated biologicals;

(b) human pathological waste, including tissues, organs, and body parts removed during surgery or an autopsy;

(c) free-flowing waste human blood and products of blood, including serum, plasma, and other blood components and items soaked or saturated with blood; and

(d) sharps that have been used in patient care, medical research, or industrial laboratories.

(5) "Intermediate point" means a place where infectious waste is not treated or disposed of.

(6) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local government entity, federal agency, or any other governmental or private entity, whether organized for profit or not.

~~(5)(7) "Sharps" means any discarded health care article that may cause punctures or cuts, including but not limited to broken glass that may be contaminated with blood, needles, and scalpel blades, and broken glass that may be contaminated with blood.~~

~~(6)(8) "Steam sterilization" means a treatment method for infectious waste using saturated steam within a pressure vessel (known as a steam sterilizer, autoclave, or retort) at a time, for a period of time, and at a temperature sufficient to kill infectious agents within the waste.~~

~~(7)(9) "Storage" or "store" means the actual or intended containment of wastes on either a temporary basis or a long-term basis to hold for a temporary period.~~

~~(8)(10) "Transportation" "Transport" or "transportation" means the movement of to move infectious waste from the point of generation to any intermediate point or to the point of ultimate treatment or disposal. from the point of generation to any intermediate points or to the point of ultimate treatment or disposal.~~

~~(9)(11) "Treatment" "Treat" or "treatment" means the application of to apply a method, technique, or process, including incineration, designed to render infectious waste sterile."~~

Section 3. Section 75-10-1004, MCA, is amended to read:

1 **"75-10-1004. Prohibition.** ~~(1) A~~ Except as provided in subsection (2), a person may not generate, treat,
2 store, transport, or dispose of infectious waste in a manner not authorized under the provisions of this part or
3 rules adopted under the provisions of this part.

4 (2) The prohibition in subsection (1) does not apply to the generation of infectious waste by an individual
5 in reasonable association with the individual's household operations."

6
7 **Section 4.** Section 75-10-1006, MCA, is amended to read:

8 **"75-10-1006. Licensing ~~Generation licensing and regulation -- rulemaking authority.~~** (1) A person
9 that is required to obtain a license from a board or department of the state to operate a health care facility, as
10 defined in 50-5-101, or to engage in a profession or occupation:

11 (a) may not generate infectious waste, store infectious waste at a place where infectious waste is
12 generated, or transport infectious waste from the point of generation to an intermediate point without a license;
13 and

14 (b) shall comply with the rules adopted under this part by the board or department responsible for
15 licensing that person. ~~that licenses a profession, occupation, or health care facility that generates infectious waste~~
16 ~~shall require each licensee to comply with this part as a condition of licensure.~~

17 (2) The A board or department of the state that issues a license to a person that generates infectious
18 waste:

19 (a) shall adopt rules to implement this part governing the following activities by a licensee:

20 (i) generation of infection waste;

21 (ii) storage of infectious waste at a place where infectious waste is generated;

22 (iii) transportation of infectious waste from the place of generation to an intermediate point; and

23 (b) may impose and adjust annual fees commensurate with the costs of regulation.

24 ~~(2) A profession, occupation, or health care facility that generates or transports infectious waste or that~~
25 ~~operates treatment, storage, or disposal facilities regulated by this part that is not already licensed by a board~~
26 ~~or department under subsection (1) must obtain a permit annually from the department. The department shall~~
27 ~~adopt rules to implement this part and may establish an annual fee commensurate with the costs of regulation.~~
28 ~~Fees collected under the provisions of this part must be deposited in the solid waste management account~~
29 ~~established in 75-10-117."~~

NEW SECTION. **Section 5. Criminal penalty.** A person who violates this part or a rule adopted pursuant to this part is guilty of a misdemeanor. Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.

NEW SECTION. **Section 6. Department rulemaking authority for infectious waste.** (1) Except as provided in subsection (2), the department shall adopt rules governing the inspection and regulation of the transportation and management of infectious waste as defined in 75-10-1003.

(2) The department may not adopt rules to regulate:

(a) the generation of infectious waste; or

(b) infectious waste storage or transportation that is regulated under 75-10-1006.

NEW SECTION. Section 7. Codification instruction. (1) [Section 5] is intended to be codified as an integral part of Title 75, chapter 10, part 10, and the provisions of Title 75, chapter 10, part 10, apply to [section 5].

(2) [Section 6] is intended to be codified as an integral part of Title 75, chapter 10, part 2, and the provisions of Title 75, chapter 10, part 2, apply to [section 6].

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