

SENATE BILL NO. 136

INTRODUCED BY B. HAMLETT, E. BUTTREY, R. COOK, S. FITZPATRICK, B. HOVEN, T. JACOBSON,  
J. KEANE, W. MCKAMEY, R. MEHLHOFF, M. MOE, J. PRICE, T. RICHMOND, R. RIPLEY, C. SCHREINER,  
B. TUTVEDT, C. VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE COLLECTION OF FEES FOR THE GENERATION  
OF REMEDIATION WASTE; AMENDING SECTIONS 75-10-403 AND 75-10-405, MCA; AND PROVIDING AN  
IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 75-10-403, MCA, is amended to read:

**"75-10-403. Definitions.** Unless the context requires otherwise, in this part, the following definitions  
apply:

(1) "Board" means the board of environmental review provided for in 2-15-3502.

(2) "Department" means the department of environmental quality provided for in 2-15-3501.

(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing  
of any hazardous waste into or onto the land or water so that the hazardous waste or any constituent of the  
hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including  
ground water.

(4) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant  
to Title 75, chapter 2, 5, 10, or 11.

(5) "Facility" or "hazardous waste management facility" means all contiguous land and structures, other  
appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A  
facility may consist of several treatment, storage, or disposal operational units.

(6) "Generation" means the act or process of producing waste material.

(7) "Generator" means any person, by site, whose act or process produces hazardous waste or whose  
act first causes a hazardous waste to become subject to regulation under this part.

(8) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity,  
concentration, or physical, chemical, or infectious characteristics, may:

1 (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or  
2 incapacitating reversible illness; or

3 (ii) pose a substantial present or potential hazard to human health or the environment when improperly  
4 treated, stored, transported, or disposed of or otherwise managed.

5 (b) Hazardous wastes do not include those substances governed by Title 82, chapter 4, part 2.

6 (9) "Hazardous waste management" means the management of the collection, source separation,  
7 storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

8 (10) "Hazardous waste transfer facility" means any land, structure, or improvement, including loading  
9 docks, parking areas, holding sites, and other similar areas, used for the transfer and temporary storage of  
10 hazardous wastes and where shipments of hazardous waste are temporarily held for a period of 10 days or less  
11 during the normal course of transportation up to but not including the point of ultimate treatment, storage, or  
12 disposal.

13 (11) "Manifest" means the shipping document that is originated and signed by the generator and that is  
14 used to identify the hazardous waste and its quantity, origin, and destination during its transportation.

15 (12) "Person" means the United States, an individual, firm, trust, estate, partnership, company,  
16 association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether  
17 organized for profit or not.

18 (13) "Remediation waste" means, FOR THE PURPOSES OF FEE ASSESSMENT ONLY, all solid and hazardous  
19 waste, debris, and media, including ground water, surface water, soils, and sediments, that are managed for  
20 implementing cleanup.

21 ~~(13)~~(14) "Storage" means the actual or intended containment of hazardous wastes, either on a temporary  
22 basis or for a period of years.

23 ~~(14)~~(15) "Transportation" means the movement of hazardous wastes from the point of generation to any  
24 intermediate points and finally to the point of ultimate storage or disposal.

25 ~~(15)~~(16) "Transporter" means a person engaged in the offsite transportation of hazardous waste by air,  
26 rail, highway, or water.

27 ~~(16)~~(17) "Treatment" means a method, technique, or process, including neutralization, designed to  
28 change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize  
29 the waste or so as to render it nonhazardous, safer for transportation, amenable for recovery, amenable for  
30 storage, or reduced in volume.

1           ~~(17)~~(18) "Used oil" means any oil that has been refined from crude oil or any synthetic oil, either of which  
2 has been used and as a result of that use is contaminated by physical or chemical impurities."  
3

4           **Section 2.** Section 75-10-405, MCA, is amended to read:

5           **"75-10-405. Administrative rules.** (1) The department may, subject to the provisions of 75-10-107,  
6 adopt, amend, or repeal rules governing hazardous waste and used oil, including but not limited to the following:

7           (a) identification and classification of those hazardous wastes that are subject to regulation and those  
8 that are not;

9           (b) requirements for the proper treatment, storage, transportation, and disposal of hazardous waste;

10           (c) requirements for siting, design, operation, maintenance, monitoring, inspection, closure, postclosure,  
11 and reclamation of hazardous waste management facilities;

12           (d) requirements for the issuance, denial, reissuance, modification, and revocation of permits for  
13 hazardous waste management facilities;

14           (e) requirements for corrective action within and outside facility boundaries and for financial assurance  
15 of that corrective action;

16           (f) requirements for manifests and the manifest system for tracking hazardous waste and for reporting  
17 and recordkeeping by generators, transporters, and owners and operators of hazardous waste management  
18 facilities;

19           (g) requirements for training of facility personnel, for financial assurance of facility owners and operators,  
20 and for liability of guarantors providing financial assurance;

21           (h) requirements for registration of generators and transporters;

22           (i) establishing a schedule of fees and procedures for the collection of fees for:

23           (i) the filing and review of hazardous waste management facility permits as provided in 75-10-432;

24           (ii) hazardous waste management as provided in 75-10-433;

25           (iii) the reissuance and modification of hazardous waste management facility permits; and

26           (iv) the registration of hazardous waste generators; Fees imposed for a facility or a site as a result of the  
27 generation of remediation waste may not exceed \$25,000 ANNUALLY.

28           (j) a schedule of fees to defray a portion of the costs of establishing, operating, and maintaining any state  
29 hazardous waste management facility authorized by 75-10-412;

30           (k) requirements for availability to the public of information obtained by the department regarding facilities

- 1 and sites used for the treatment, storage, and disposal of hazardous wastes;
- 2 (l) procedures for the assessment of administrative penalties as authorized by 75-10-424;
- 3 (m) identification and classification of used oil that is subject to regulation and used oil that is not subject
- 4 to regulation;
- 5 (n) requirements for the proper management of used oil; and
- 6 (o) other rules that are necessary to obtain and maintain authorization under the federal program.
- 7 (2) Notwithstanding the provisions of 75-10-107, the department may not adopt rules under this part that
- 8 are more restrictive than those promulgated by the federal government under the Resource Conservation and
- 9 Recovery Act of 1976, as amended, except that the department:
- 10 (a) may require the registration of transporters not otherwise required to register with the state of
- 11 Montana pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended;
- 12 (b) may require hazardous waste generators and hazardous waste management facilities to report on
- 13 an annual rather than on a biennial basis;
- 14 (c) may adopt regulatory requirements for hazardous waste transfer facilities;
- 15 (d) shall require the owner or manager of any proposed commercial facility for the storage, collection,
- 16 or transfer of hazardous waste to conduct a public hearing, as provided for in 75-10-441; and
- 17 (e) may adopt rules and performance standards for industrial furnaces and boilers that burn hazardous
- 18 wastes. The rules and performance standards:
- 19 (i) may be adopted if there are no federal regulations; or
- 20 (ii) may be more restrictive than federal regulations."

21

22 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

23

24 **NEW SECTION. Section 4. Retroactive applicability.** [This act] applies retroactively, within the

25 meaning of 1-2-109, to waste generated after January 1, 2014.

26

- END -