

HOUSE BILL NO. 200  
INTRODUCED BY C. HARRIS  
BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BIOLOGICAL AGENTS REGISTRY IN THE DEPARTMENT OF JUSTICE AND AUTHORIZING CIVIL PENALTIES FOR A VIOLATION OF REGISTRY REQUIREMENTS."

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

NEW SECTION. **Section 1. Biological agents registry -- rules -- penalties.** (1) The department of justice shall establish and administer a program for the registration of biological agents. The biological agents registry must identify the biological agents possessed and maintained by any person in this state and must contain other information required by rules adopted by the department.

(2) As used in this section, the following definitions apply:

(a) "Biological agent" means any microorganism, including but not limited to bacteria, viruses, fungi, rickettsiae, or protozoa; infectious substance; or any naturally occurring, bioengineered, or synthesized component of any microorganism or infectious substance that is capable of causing:

- (i) death, disease, or other biological malfunction in a human, animal, plant, or other living organism;
- (ii) deterioration of food, water, equipment, supplies, or material of any kind; or
- (iii) deleterious alteration of the environment.

(b) "Person" means any association, business, corporation, facility, firm, individual, institution of higher education, organization, partnership, society, state agency, or other legal entity.

(3) The department shall adopt rules for the implementation of the registry program as follows:

(a) determining and listing the biological agents required to be reported under this section;

(b) designating persons required to make reports and specific information required to be reported, including time limits for reporting, form of reports, and to whom reports must be submitted;

(c) providing for the release of information in the registry to state and federal law enforcement agencies and the United States centers for disease control and prevention pursuant to a communicable disease investigation commenced or conducted by the department or other state or federal law enforcement agency having investigatory authority or in connection with any investigation involving the release, theft, or loss of

biological agents;

(d) establishing a system of safeguards that requires persons possessing and maintaining biological agents subject to this section to comply with the same federal standards that apply to persons registered to possess the same agents under federal law;

(e) establishing a process for persons that possess and maintain biological agents to alert appropriate authorities of unauthorized possession or attempted possession of biological agents. The rules must designate appropriate authorities for receipt of alerts from these persons.

(4) A person that possesses and maintains any biological agent required to be reported under this section shall report to the department the information required for inclusion in the biological agent registry.

(5) (a) Except as otherwise provided in this section, material and information prepared for or maintained in the registry under this section are not subject to disclosure under the public records law. Material and information prepared for or maintained in the registry are not subject to subpoena unless the information is reviewed, in camera, by a district court judge and ordered to be provided to the person seeking access.

(b) The department may, in accordance with its rules, release information contained in the biological agent registry for the purpose of conducting or aiding in a communicable disease investigation. The department shall cooperate with and may share information contained in the biological agents registry with state and federal law enforcement agencies and the United States centers for disease control and prevention in any investigation involving the release, theft, or loss of a biological agent required to be reported under this section.

(c) Release of information from the registry, as authorized by subsection (5)(a) or (5)(b), does not render the information released or information prepared for or maintained in the registry a public record.

(6) A person who willfully or knowingly violates a provision of this section or rules adopted by the department under this section is subject to an administrative civil penalty of not more than \$1,000 for each offense. Each day of a violation constitutes a separate violation. The proceeds of a civil penalty must be deposited in the general fund. The department shall establish by rule a penalty matrix that schedules the types of penalties, the amounts for initial and subsequent offenses, and other matters necessary for the administration of civil penalties under this subsection. The issuance of a civil penalty is subject to the contested case procedures of Title 2, chapter 4, part 6.

**NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [section 1].

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