

HOUSE BILL NO. 368

INTRODUCED BY W. SALES, B. HARRIS, K. HOLMLUND, F. MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING SETBACKS BETWEEN SEWAGE LAGOONS AND WATER WELLS; EXTENDING DEPARTMENT OF ENVIRONMENTAL QUALITY RULEMAKING AUTHORITY; PROVIDING A RULEMAKING EXCEPTION; ELIMINATING THE PROHIBITION ON LOCATING SEWAGE LAGOONS WITHIN 500 FEET OF A WATER WELL; AND AMENDING SECTIONS 75-5-201 AND 75-5-605, MCA."

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

NEW SECTION. Section 1. Establishing setbacks -- rulemaking. (1) The department shall adopt rules establishing setback area requirements between sewage lagoons and water wells to prevent water well contamination.

~~(2) EXCEPT AS PROVIDED IN SUBSECTION (3), RULES MUST BE LIMITED TO TECHNICAL STANDARDS BASED ON:~~

~~(A) SITE GEOLOGY;~~

~~(B) SITE TOPOGRAPHY; AND~~

~~(C) POSSIBLE MITIGATION MEASURES.~~

~~(3) THE RULES MAY NOT:~~

~~(A) PERMIT SITING AND CONSTRUCTION OF A SEWAGE LAGOON LESS THAN 100 FEET FROM AN EXISTING WATER WELL; OR~~

~~(B) REQUIRE SITING AND CONSTRUCTION OF A SEWAGE LAGOON MORE THAN 500 FEET FROM AN EXISTING WATER WELL;~~

Section 2. Section 75-5-201, MCA, is amended to read:

"75-5-201. Board rules authorized. (1) (a) The board shall, except as provided in [section 1] and subject to the provisions of 75-5-203, adopt rules for the administration of this chapter.

(b) The board shall adopt rules that describe the location and the times of the year when suction dredging is permissible. These rules may be adopted only after consultation with the local conservation districts in the areas subject to the rule.

1 (2) The board's rules may include a fee schedule or system for assessment of administrative penalties
2 as provided under 75-5-611."

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4 **Section 3.** Section 75-5-605, MCA, is amended to read:

5 **"75-5-605. Prohibited activity -- exemption.** (1) It is unlawful to:

6 (a) cause pollution, as defined in 75-5-103, of any state waters or to place or cause to be placed any
7 wastes where they will cause pollution of any state waters. Any placement of materials that is authorized by a
8 permit issued by any state or federal agency is not a placement of wastes within the prohibition of this subsection
9 (1)(a) if the agency's permitting authority includes provisions for review of the placement of materials to ensure
10 that it will not cause pollution of state waters.

11 (b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and
12 conditions contained in the permit;

13 ~~(c) site and construct a sewage lagoon less than 500 feet from an existing water well;~~

14 ~~(d)~~(c) cause degradation of state waters without authorization pursuant to 75-5-303;

15 ~~(e)~~(d) violate any order issued pursuant to this chapter; or

16 ~~(f)~~(e) violate any provision of this chapter.

17 (2) Except for the permit exclusions identified in 75-5-401(5), it is unlawful to carry on any of the following
18 activities without a current permit from the department:

19 (a) construct, modify, or operate a disposal system that discharges into any state waters;

20 (b) construct or use any outlet for the discharge of sewage, industrial wastes, or other wastes into any
21 state waters; or

22 (c) discharge sewage, industrial wastes, or other wastes into any state waters.

23 (3) Activities associated with routine or periodic maintenance, repair, replacement, or operation of
24 irrigation water conveyance systems, including activities associated with any constructed channel, canal, ditch,
25 pipeline, or portion of any constructed channel, canal, ditch, or pipeline, are not prohibited activities under this
26 chapter if the activities do not result in exceeding water quality standards for any receiving water outside the
27 irrigation water conveyance system. The diversion of water in accordance with an existing water right or permit
28 pursuant to Title 85, chapter 2, is not a prohibited activity under this chapter."

29
30 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an

1 integral part of Title 75, chapter 5, and the provisions of Title 75, chapter 5, apply to [section 1].

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3 COORDINATION SECTION. SECTION 5. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 337 AND

4 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 2 OF THIS ACT] IS VOID.

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