

## CHAPTER 337—H.F.No. 661

*An act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes 1988, sections 388.051, subdivision 2; and 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116.*

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

Section 1. [116.75] CITATION.

Sections 2 to 9 may be cited as the "infectious waste control act."

Sec. 2. [116.76] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 2 to 9.

Subd. 2. AGENCY. "Agency" means the pollution control agency.

Subd. 3. BLOOD. "Blood" means waste human blood and blood products in containers, or solid waste saturated and dripping human blood or blood products. Human blood products include serum, plasma, and other blood components.

Subd. 4. COMMERCIAL TRANSPORTER. "Commercial transporter" means a person who transports infectious or pathological waste for compensation.

Subd. 5. COMMISSIONER. "Commissioner" means the commissioner of the pollution control agency.

Subd. 6. DECONTAMINATION. "Decontamination" means rendering infectious waste safe for routine handling as a solid waste.

Subd. 7. DEPARTMENT. "Department" means the department of health.

Subd. 8. FACILITY. "Facility" means a site where infectious waste is generated, stored, decontaminated, incinerated, or disposed.

Subd. 9. GENERATOR. "Generator" means a person whose activities produce infectious waste. "Generator" does not include a person who produces sharps as a result of administering medication to oneself.

Subd. 10. HOUSEHOLD. "Household" means a single detached dwelling unit or a single unit of a multiple dwelling.

Subd. 11. INFECTIOUS AGENT. "Infectious agent" means an organism that is capable of producing infection or infectious disease in humans.

Subd. 12. INFECTIOUS WASTE. "Infectious waste" means laboratory

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waste, blood, regulated body fluids, sharps, and research animal waste that have not been decontaminated.

Subd. 13. LABORATORY WASTE. "Laboratory waste" means waste cultures and stocks of agents that are generated from a laboratory and are infectious to humans; discarded contaminated items used to inoculate, transfer, or otherwise manipulate cultures or stocks of agents that are infectious to humans; wastes from the production of biological agents that are infectious to humans; and discarded live or attenuated vaccines that are infectious to humans.

Subd. 14. PATHOLOGICAL WASTE. "Pathological waste" means human tissues and body parts removed accidentally or during surgery or autopsy intended for disposal. Pathological waste does not include teeth.

Subd. 15. PERSON. "Person" means an individual, partnership, association, public or private corporation, or other legal entity, the United States government, an interstate body, the state, and an agency, department, or political subdivision of the state.

Subd. 16. REGULATED HUMAN BODY FLUIDS. "Regulated human body fluids" means cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid that are in containers or that drip freely from body fluid soaked solid waste items.

Subd. 17. RESEARCH ANIMAL WASTE. "Research animal waste" means carcasses, body parts, and blood derived from animals knowingly and intentionally exposed to agents that are infectious to humans for the purpose of research, production of biologicals, or testing of pharmaceuticals.

Subd. 18. SHARPS. "Sharps" means:

(1) discarded items that can induce subdermal inoculation of infectious agents, including needles, scalpel blades, pipettes, and other items derived from human or animal patient care, blood banks, laboratories, mortuaries, research facilities, and industrial operations; and

(2) discarded glass or rigid plastic vials containing infectious agents.

### Sec. 3. [116.77] COVERAGE.

Sections 1 to 9 and section 609.671, subdivision 10, cover any person who generates, treats, stores, transports, or disposes of infectious or pathological waste except infectious or pathological waste generated by households, farm operations, or agricultural businesses. Except as specifically provided, sections 1 to 9 do not limit or alter treatment or disposal methods for infectious or pathological waste.

### Sec. 4. [116.78] WASTE MANAGEMENT.

Subdivision 1. SEGREGATION. All untreated infectious waste must be segregated from other waste material at its point of generation and maintained in separate packaging throughout collection, storage, and transport. Infectious waste must be packaged, contained, and transported in a manner that prevents release of the waste material.

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Subd. 2. LABELING. All bags, boxes, and other containers used to collect, transport, or store infectious waste must be clearly labeled with a biohazard symbol or with the words "infectious waste" written in letters no less than one inch in height.

Subd. 3. REUSABLE CONTAINERS. Containers which have been in direct contact with infectious waste must be disinfected prior to reuse.

Subd. 4. SHARPS. Sharps, except those generated from a household or from a farm operation or agricultural business:

(1) must be placed in puncture-resistant containers;

(2) may not be compacted or mixed with other waste material whether or not the sharps are decontaminated; and

(3) may not be disposed of at refuse-derived fuel facilities or at other facilities where waste is hand sorted.

Subd. 5. PATHOLOGICAL WASTE. Pathological waste must be managed according to sanitary standards established by state and federal laws or regulations for the disposal of the waste.

Subd. 6. STORAGE. Infectious and pathological waste must be stored in a specially designated area that is designed to prevent the entry of vermin and that prevents access by unauthorized persons.

Subd. 7. COMPACTION AND MIXTURE WITH OTHER WASTES. Infectious waste may not be compacted or mixed with other waste materials prior to incineration or disposal.

Subd. 8. DISPOSAL. Except for disposal procedures specifically prescribed, this section and section 7 do not limit disposal methods for infectious and pathological waste.

#### Sec. 5. [116.79] MANAGEMENT PLANS.

Subdivision 1. PREPARATION OF MANAGEMENT PLANS. (a) To the extent applicable to the facility, a person in charge of a facility that generates, stores, decontaminates, incinerates, or disposes of infectious or pathological waste must prepare a management plan for the infectious or pathological waste handled by the facility.

(b) The management plan must describe, to the extent the information is applicable to the facility:

(1) the type of infectious waste and pathological waste that the person generates or handles;

(2) the segregation, packaging, labeling, collection, storage, and transportation procedures for the infectious waste or pathological waste that will be followed;

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(3) the decontamination or disposal methods for the infectious or pathological waste that will be used;

(4) the transporters and disposal facilities that will be used for the infectious waste;

(5) the steps that will be taken to minimize the exposure of employees to infectious agents throughout the process of disposing of infectious or pathological wastes; and

(6) the name of the individual responsible for the management of the infectious waste or pathological waste.

(c) The management plan must be kept at the facility.

(d) To the extent applicable to the facility, management plans must be accompanied by a statement of the quantity of infectious and pathological waste generated, decontaminated, stored, incinerated, or disposed of at the facility during the previous two-year period. Quantities may be reported by weight, volume, or number and capacity of containers. The commissioner of health shall prepare a summary of the quantities of infectious and pathological waste generated, by facility type.

(e) A management plan must be updated and resubmitted at least once every two years.

**Subd. 2. COMPLIANCE WITH MANAGEMENT PLANS.** A person who prepares a management plan must comply with the management plan.

**Subd. 3. GENERATORS' PLANS.** (a) Management plans prepared by facilities that generate infectious or pathological waste must be submitted to the commissioner of health with a fee of \$225 for facilities with 25 or more employees, or a fee of \$40 for facilities with less than 25 employees. The fee must be deposited in the state treasury and credited to the general fund.

(b) A person who begins the generation of infectious or pathological waste after January 1, 1990, must submit to the commissioner of health a copy of the person's management plan prior to initiating the handling of the infectious or pathological waste.

(c) If a generator also incinerates infectious or pathological waste, a separate management plan must be prepared for the incineration activities.

(d) The commissioner of health must establish a procedure for randomly reviewing the plans.

(e) The commissioner of health may require a management plan of a generator to be modified if the commissioner of health determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the infectious or pathological waste.

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**Subd. 4. PLANS FOR STORAGE, DECONTAMINATION, INCINERATION, AND DISPOSAL FACILITIES.** (a) A person who stores or decontaminates infectious or pathological waste, other than at the facility where the waste was generated, or a person who incinerates or disposes of infectious or pathological waste, must submit a copy of the management plan to the commissioner of the pollution control agency with a fee of \$225. A person who incinerates on site at a hospital must submit a fee of \$100. The fee must be deposited in the state treasury and credited to the general fund.

(b) The commissioner shall review the plans and may require a plan to be modified within 180 days after the plan is submitted if the commissioner determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the waste.

**Sec. 6. [116.80] TRANSPORTATION OF INFECTIOUS WASTE.**

**Subdivision 1. TRANSFER OF INFECTIOUS WASTE.** (a) A generator may not transfer infectious waste to a commercial transporter unless the transporter is registered with the commissioner.

(b) A transporter may not deliver infectious waste to a facility prohibited to accept the waste.

(c) A person who is registered to transport infectious waste may not refuse waste generated from a facility that is properly packaged and labeled as "infectious waste."

**Subd. 2. PREPARATION OF MANAGEMENT PLANS.** (a) A commercial transporter in charge of a business that transports infectious waste must prepare a management plan for the infectious waste handled by the commercial transporter.

(b) The management plan must describe, to the extent the information is applicable to the commercial transporter:

- (1) the type of infectious waste that the commercial transporter handles;
- (2) the transportation procedures for the infectious waste that will be followed;
- (3) the disposal facilities that will be used for the infectious waste;
- (4) the steps that will be taken to minimize the exposure of employees to infectious agents throughout the process of transporting and disposing of infectious waste; and
- (5) the name of the individual responsible for the transportation and management of the infectious waste.

(c) The management plan must be kept at the commercial transporter's principal place of business.

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(d) Management plans must be accompanied by a statement of the quantity of infectious waste transported during the previous two-year period. Quantities may be reported by weight, volume, or number and capacity of containers.

(e) A management plan must be updated and resubmitted at least once every two years.

(f) The commissioner shall review the plans and may require a plan to be modified within 180 days after the plan is submitted if the commissioner determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the waste.

**Subd. 3. REGISTRATION REQUIRED.** (a) A commercial transporter must register with the commissioner.

(b) To register, a commercial transporter must submit a copy of the management plan to the commissioner of the pollution control agency with a fee of \$225. The fee must be deposited in the state treasury and credited to the general fund.

(c) The registration is valid for two years.

(d) The commissioner shall issue a registration card with a unique registration number to a person who has submitted a transporter's management plan unless the commissioner finds that registrant has outstanding unresolved violations of this section or a history of serious violations of chapter 115, 115A, 115B, or 116. The registration card must include the date the card expires.

**Subd. 4. WASTE FROM OTHER STATES.** A person may not transport infectious waste into the state for decontamination, storage, incineration, or disposal without complying with sections 2 to 8.

#### Sec. 7. [116.81] RULES.

**Subdivision 1. AGENCY RULES.** The agency, in consultation with the commissioner of health, may adopt rules to implement sections 2 to 8. The agency has primary responsibility for rules relating to transportation of infectious waste and facilities storing, transporting, decontaminating, incinerating, and disposing of infectious waste. The agency before adopting rules affecting animals or research animal waste must consult the commissioner of agriculture and the board of animal health.

**Subd. 2. HEALTH RULES.** The commissioner of health after consulting with the agency may adopt rules to implement sections 2 to 8. The commissioner of health has primary responsibility for rules relating to facilities generating infectious waste. The commissioner of health before adopting rules affecting animals or research animal waste must consult the commissioner of agriculture and the board of animal health.

#### Sec. 8. [116.82] AUTHORITY OF LOCAL GOVERNMENT.

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Subdivision 1. PREEMPTION OF REGULATION. A county, municipality, or other political subdivision of the state may not adopt a definition of infectious or pathological waste that differs from the definitions in section 2, or management requirements for infectious or pathological waste that differ from the requirements of sections 4 and 5.

Subd. 2. LOCAL SOLID WASTE AUTHORITY. (a) Sections 2 to 7 do not affect local implementation of collection, storage, or disposal of solid waste that does not contain infectious waste.

(b) Sections 2 to 7 do not affect county authority under other law to regulate and manage solid waste that does not contain infectious waste.

(c) A political subdivision, as defined in section 115A.03, subdivision 24, may not require a refuse-derived fuel facility to accept infectious waste.

Subd. 3. LOCAL ENFORCEMENT. Sections 2 to 7 may be enforced by a county by delegation of enforcement authority granted to the commissioner of health and the agency in section 9. Separate enforcement actions may not be brought by a state agency and a county for the same violations. The state or county may not bring an action that is being enforced by the federal Office of Safety and Health Administration.

#### Sec. 9. [116.83] ENFORCEMENT.

Subdivision 1. STATE RESPONSIBILITIES. The agency or the commissioner of health may enforce sections 2 to 7. The commissioner of health is primarily responsible for enforcement involving generators. The agency is primarily responsible for enforcement involving other persons subject to sections 2 to 7.

Subd. 2. ENFORCEMENT AUTHORITY. The commissioner of health has the authority of the agency to enforce sections 2 to 7 under section 115.071.

Subd. 3. ACCESS TO INFORMATION AND PROPERTY. Subject to section 144.651, the commissioner of the pollution control agency or the commissioner of health may on presentation of credentials, during regular business hours:

(1) examine and copy any books, records, memoranda, or data that is related to compliance with sections 2 to 7; and

(2) enter public or private property regulated by sections 2 to 7 for the purpose of taking an action authorized by this section including obtaining information and conducting investigations.

#### Sec. 10. STUDIES.

(a) The pollution control agency, in consultation with the commissioner of health, shall study the management of sharps generated by households including

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the feasibility of establishing a collection system for sharps generated by households.

(b) The pollution control agency, in consultation with the commissioner of agriculture and the board of animal health, shall study the feasibility of establishing a collection system for sharps generated by farm operations or agricultural businesses.

Sec. 11. Minnesota Statutes 1988, section 388.051, subdivision 2, is amended to read:

Subd. 2. **SPECIAL PROVISIONS.** (a) In Anoka, Carver, Dakota, Hennepin, Scott, and Washington counties, only the county attorney shall prosecute gross misdemeanor violations of sections 290.53, subdivisions 4 and 11; 290.92, subdivision 15; 290A.11, subdivision 2; 297A.08; 297A.39, subdivisions 4 and 8; 297B.10; 609.255, subdivision 3; 609.377; 609.378; 609.41; and 617.247.

(b) The county attorney shall prosecute failure to report physical or sexual child abuse or neglect as provided under section 626.556, subdivision 6, ~~and shall prosecute~~ violations of fifth-degree criminal sexual conduct under section 609.3451, and environmental law violations under sections 115.071, 299F.098, and 609.671.

Sec. 12. Minnesota Statutes 1988, section 609.671, is amended by adding a subdivision to read:

Subd. 11. INFECTIOUS WASTE. A person who knowingly, or with reason to know, disposes of or arranges for the disposal of infectious waste as defined in section 2 at a location or in a manner that is prohibited by section 4 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$10,000, or both. A person convicted a second or subsequent time under this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than \$25,000, or both.

Sec. 13. **APPROPRIATIONS.**

Subdivision 1. POLLUTION CONTROL AGENCY. \$265,000 is appropriated from the general fund to the commissioner of the pollution control agency for the biennium ending June 30, 1991, to carry out the requirements of sections 1 to 10. The approved complement of the pollution control agency is increased by two positions in fiscal year 1990 and one additional position in fiscal year 1991.

Subd. 2. DEPARTMENT OF HEALTH. \$200,000 is appropriated from the general fund to the commissioner of health for the biennium ending June 30, 1991, to carry out the requirements of sections 1 to 10. The approved complement of the department of health is increased by two and one-half positions.

Subd. 3. HEALTH DEPARTMENT. \$10,000 is appropriated from the general fund to the commissioner of health for the biennium ending June 30,

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1991, to prepare educational material for distribution to infectious and pathological waste generators and transporters; treatment, storage, and disposal facility operators; households that generate infectious waste; and to the general public.

**Sec. 14. EFFECTIVE DATE.**

Sections 2, 3, 7, and 8 are effective the day after final enactment. Sections 1, 4, 5, 6 and 9 are effective January 1, 1990. Section 12 is effective January 1, 1990, and applies to crimes committed on or after that date.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:12 p.m.

**CHAPTER 338—H.F.No. 1532**

*An act relating to utilities; low-income energy needs; designating the department of public service as the agency responsible for coordinating energy policy for low-income Minnesotans; requiring the department to gather certain information on low-income energy programs; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.*

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

**Section 1. [216B.095] DISCONNECTION DURING COLD WEATHER.**

The commission shall amend its rules governing disconnection of residential utility customers who are unable to pay for utility service during cold weather to include the following:

(1) coverage of customers whose household income is less than 185 percent of the federal poverty level;

(2) a requirement that a customer who pays the utility at least ten percent of the customer's income or the full amount of the utility bill, whichever is less, in a cold weather month cannot be disconnected during that month;

(3) that the ten percent figure in clause (2) must be prorated between energy providers proportionate to each provider's share of the customer's total heating energy costs where the customer receives service from more than one provider;

(4) that a customer's household income does not include any amount received for energy assistance;

(5) verification of income by the local energy assistance provider, unless the

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